



# EMERGENCY SERVICES DISTRICTS

## *OPERATING GUIDE*

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### **Special Update:**

Please note that this Operating Guide was published by the Texas Department of Rural Affairs prior to becoming the Office of Rural Affairs within the Texas Department of Agriculture (TDA). For questions regarding Emergency Services Districts please contact the Texas State Association of Fire and Emergency Districts (SAFE-D) representative below. For questions regarding this publication please contact the TDA representative below.

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This guide provides a summary of Emergency Services District policies and procedures. Although this document is designed to serve as an overview for ESD commissioners, providing samples and suggestions for the administration of ESDs, under no circumstances should this document be considered a substitute for competent legal advice.

The below attorneys have shown an interest in ESD's and are listed for your consideration. The Texas Department of Agriculture does not endorse or recommend any attorney.

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## INTRODUCTION

Emergency Services Districts (ESDs) are political subdivisions of the State of Texas. They may support or provide local emergency services, including emergency medical services, emergency ambulance services, rural fire prevention and control services, and other emergency services authorized by the Texas Legislature. ESD's may impose a sales and use tax and/or property tax to support or provide these services. In addition to other powers, an ESD may also own real or personal property, enter into contracts, employs officer, agents, and employees, accept donations, adopt and enforce a fire code, and provide a fire marshal.

ESD tax revenues may be used to hire full-time emergency personnel, contract with other entities that have full-time fire and emergency medical departments, and/or purchase new equipment and facilities. More importantly for some areas, ESDs can contract with volunteer fire and emergency medical services departments and provide a stable funding source for these entities as well. ESD tax revenues mean more time to focus on training and the provision of emergency services rather than fund-raising and other activities for these volunteer fire and emergency medical services organizations. Through these powers and stable funding, established ESDs have considerably reduced fire and medical response times, provided stable funding for volunteer and other fire and EMS departments, and allowed local entities to provide enhanced services - thus saving lives, property, and funds for local citizens.

The establishment of an ESD may result in a better Insurance Services Office (ISO) rating within the ESD service area, and lower insurance premiums for businesses and homeowners. The result is fair, evenly-shared support from all the citizens who get fire and emergency medical from their local emergency services organization or the ESD itself.

ESDs are created under Texas Health and Safety Code, Chapter 775 or Chapter 776 as a means to better provide public funding for urban, suburban and rural emergency services organizations. Districts created under Chapter 776, Texas Health & Safety Code are generally designated for counties with populations of less than 125,000. However, the trend is to create all future ESDs under Chapter 775 since this chapter of the Texas Health and Safety Code provides greater flexibility and authority to an ESD and these ESDs may be created in any county in Texas, regardless of population.

ESDs are the only practical way to adequately support emergency services in many Texas municipalities as well as suburban and rural areas of the state.

In this book, reference will generally be made to the relevant sections of Chapter 775, Texas Health & Safety Code, for the reasons stated above, but references may also be made to Chapter 776, Texas Health & Safety Code where appropriate.

### **TDRA's Role**

In 2005, the Texas Legislature passed House Bill 2619 (R) which instructed the Texas Department of Rural Affairs to assist rural areas with the establishment of ESDs. The agency does so by providing interested rural community officials with:

- General information about ESDs
- Information and training related to the establishment of an ESD
- Technical assistance related to the implementation of an ESD

The Texas Department of Rural Affairs serves as a resource, not an advocate, for the establishment and maintenance of ESD's.

**Disclaimer**

While the information within this document is believed to be accurate at the time of publication (May 2010), the legislature periodically may revise laws governing ESDs. Therefore, the Texas Department of Rural Affairs does not guarantee that the information within this document will remain unchanged.

All readers are encouraged to refer to the Texas Constitution, the proper state legislation and federal laws, rules, and regulations, or seek the advice of an attorney for more detailed information.

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## 1. CREATING AN ESD

*In this chapter and the entire document, "Board" refers to the ESD Board of Emergency Services Commissioners. "ESD" refers to an emergency services district.*

The decision to create an Emergency Services District (ESD) requires the gathering and analysis of important information that will serve as a foundation for the ESD creation process. Below are a few basic steps required for establishing an ESD. This list is provided as a reference only. Specific details for creating an ESD should be researched in the Texas Health and Safety Code, Chapter 775 or Chapter 776, and the Election Code.

### The Process

#### Decision Making

Before creating an ESD, three primary questions must be answered:

1. Why create an ESD?
2. Will the ESD provide the legal authority to do what is needed?
3. Is there adequate support for the creation of an ESD?

If the responses to these key questions are acceptable, then the following considerations should be reviewed to ensure that the decision to create an ESD is sound.

1. Gather and analyze important information, such as the:

- Boundaries (area) to be included in the district;
- Boundaries that are coextensive (share the same boundaries) with another political subdivision is a sufficient legal description (Health and Safety Code, Chapter 775.013);
- Anticipated property tax base within the district;
- Expected revenue; and
- Current expenditures for fire and/or emergency medical services (EMS) by current providers.

2. Compare the income potential to the probable expenditures.

3. Solicit feedback from:

- County judge(s) and commissioners;
- The County Clerk;
- The local Central Appraisal District;
- The local Tax Assessor-Collector
- All incorporated cities;
- Affected fire departments and EMS providers; and
- Major land owners.

4. Identify whether there is an organized group of supporters or opponents.

5. Consult with and retain, if necessary, an attorney to assist in the creation process.





## **Appointment of ESD Commissioners**

Once an ESD has been approved, and assuming the ESD is not located in more than one county or in Harris County, ESD Commissioners must be appointed by the commissioners' court of the affected county to oversee the operations and administration of the ESD. *See*, §§ 775.034, Texas Health and Safety Code. It should be noted that counties with a population of more than 3 million, including Harris County, as well as districts created in more than one county elect ESD Commissioners. If the proposed district will require the election of commissioners, then they will be elected at the next uniform election date after the creation of the district in an election called and administered by the relevant counties. *See*, §§ 775.035, 775.0345, 775.035, and 775.0355, Texas Health and Safety Code.

### Terms of Service

After an ESD in a single county is created, the county commissioners' court appoints five individuals who shall serve as the Board of Emergency Services Commissioners of the District until January 1 of the year following the election creating the district. On that date, the Court will appoint three (3) of the ESD commissioners to serve 2-year terms and two (2) ESD commissioners to serve 1-year terms, thereby creating staggered terms for the Board. Thereafter, on January 1 of each year, the commissioners' court will either re-appoint the commissioners whose terms have expired or appoint new commissioners to replace those commissioners whose terms have expired.

### Qualifications

Those interested in becoming an ESD commissioner must:

- Be 18 years of age;
- Be a resident of the state;
- Be a qualified voter within the ESD or owner of land subject to taxation in the ESD; and, these candidates may possess knowledge of fire prevention or emergency medical services. *See*, §§ 775.034, Texas Health and Safety Code.

For elected Boards, see § 775.0345, 775.034, and 775.0355, Texas Health and Safety Code, and please note there are certain disqualifications for those seeking elected office on the Board of an ESD.

### Training

The next step is for all ESD commissioners to receive orientation and training, which can be provided by an attorney of the District's choice or:

- a) Texas Department of Rural Affairs  
1700 N. Congress Avenue, Suite 220  
Austin, TX 78701  
Phone: 512-936-6701  
Toll Free: 800-544-2042  
Fax: 512-936-6776  
Email: [tdra@tdra.state.tx.us](mailto:tdra@tdra.state.tx.us)  
Web site: [www.tdra.state.tx.us](http://www.tdra.state.tx.us)  
PO Box 12877  
Austin, TX 78871
- b) Office of the Attorney General

300 W. 15th Street  
Austin, TX 7870  
Phone: 512-463-2100  
Web: [www.oag.state.tx.us](http://www.oag.state.tx.us)

PO Box 12548  
Austin, TX 78711-2548

ESD Commissioners are also required to complete training in the Texas Public Information Act and the Texas Open Meetings Act. Commissioners elected or appointed after January 1, 2006 have 90 days after the date the commissioner takes the oath of office to complete the required training. This training may be completed by use of the Texas Attorney General website listed above. Certification of training of each commissioner must be filed with the ESD records.

### **Notice of ESD Creation**

Each newly formed ESD should notify others of the new district's creation. It is advisable to contact:

a) **Rodney Kelley**  
**Emergency Services Districts Coordinator**  
**Texas Department of Rural Affairs**  
**165 East Sixth St.**  
**P.O. BOX 152**  
**Rusk, Texas 75785**  
**Phone: 903-683-4251**  
**Toll Free: 800-544-2042**  
**Fax: 903-683-4261**  
**Email: [rodney.kelley@tdra.state.tx.us](mailto:rodney.kelley@tdra.state.tx.us)**  
**Web site: [www.tdra.state.tx.us](http://www.tdra.state.tx.us)**

b) Jesse Williams  
State Fire Marshal's Office  
333 Guadalupe  
Austin, TX 78701  
Phone: 512-305-7900  
Email: [fire.marshall@tdi.state.tx.us](mailto:fire.marshall@tdi.state.tx.us)

Please include a map of the ESD with the notification to the State Fire Marshal's Office.

In addition, new ESDs should send notice of creation, including the ESD name, address and contact phone numbers to:

- a) Adjacent or neighboring cities;
- b) Applicable council(s) of governments;
- c) All neighboring fire fighting and/or EMS agencies;
- d) The appropriate Tax Assessor-Collector and Central Appraisal District; and,
- e) All applicable law enforcement organizations.

### **First Steps**

#### Statements and Oaths of Office

Before beginning duties, each newly appointed or elected ESD Commissioner must be officially sworn in, usually by the county judge or other person authorized to give oaths. The

Secretary of State provides the required forms and instructions for the necessary Statements of Office and Oaths of Office that must be completed by the ESD Board before conducting any business. Legal counsel should be consulted before conducting any business of the newly created ESD.

The signed statements and Oaths of Office shall be retained with the official records of the ESD.

Example:

**STATEMENT OF ELECTED/APPOINTED OFFICER**

*(Pursuant to Tex. Const. art. XVI, §1(b), amended 2001)*

I, \_\_\_\_\_, do solemnly swear (or affirm), that I have not directly or indirectly paid, offered, promised to pay, contributed, or promised to contribute any money or thing of value, or promised any public office or employment for the giving or withholding of a vote at the election at which I was elected or as a reward to secure my appointment or confirmation, whichever the case may be, so help me God.

*UNDER PENALTIES OF PERJURY, I DECLARE THAT I HAVE READ THE FOREGOING STATEMENT AND THAT THE FACTS STATED THEREIN ARE TRUE.*

Officer's Signature	Date
Position to Which Elected/Appointed	City and/or County

Form No. 2201

**Oath of Office**

*EXECUTION OF THE OATH OF OFFICE*

Pursuant to Tex. Const. art. XVI, § 1 (amended 2001), the Oath of Office **may not** be taken until a signed statement (Statement of Elected/Appointed Officer or Pre-Oath Statement) has been filed with the official records of the office of the ESD. Tex. Const. art. XVI § 1 c.

*ADMINISTRATION OF THE OATH OF OFFICE*

The Oath of Office may be administered by anyone authorized under the provisions of Tex. Gov't Code Ann. § 602.002 or § 602.006. Commonly used officials include notaries public and judges.

The seal of the person administering the Oath should be visible. If the person is a notary public, Tex. Gov't Code Ann. § 406.013, requires that the seal be affixed in a way "that legibly reproduces the required elements of the seal under photographic methods".

*FILING OF THE OATH OF OFFICE*

After each Statement of Officer has been properly filed and Oath of Office has been administered, all ESD Commissioners should file their Oaths locally. Please check with the county clerk, city secretary or board/commission secretary for the proper filing location.

**\*\*\* PLEASE DIRECT ANY QUESTIONS REGARDING THE OATH OF OFFICE TO THE STATUTORY DOCUMENTS SECTION AT (512) 463-5705. \*\*\***

Example:

In the name and by the authority of

**The State of Texas**

**OATH OF OFFICE**

I, \_\_\_\_\_, do solemnly swear (or affirm), that I will faithfully execute the duties of the office of \_\_\_\_\_ of the State of Texas, and will to the best of my ability preserve, protect, and defend the Constitution and laws of the United States and of this State, so help me God.

\_\_\_\_\_  
Affiant

SWORN TO and subscribed before me by affiant on this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Signature of Person Administering Oath

(Seal)

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

Form #2204

Revised August 1999

**First Steps Continued**

The first order of business for any newly created ESDs is to build a solid foundation for the district's operations. Below is a checklist of items to consider in the development of a new ESD, and it should be noted that these items are not provided in any particular order. Generally, it may be helpful for the ESD to consult with the county commissioner's court to assist in getting started, and the retention legal counsel may be the first item that is considered by an ESD.

1. Elect officers and obtain a bond for the Treasurer.

Election must be held to elect the President, Vice-President, Secretary, Treasurer,, and Assistant Treasurer. Review with the County Judge the amount of the bond required for the ESD Treasurer. Obtain the necessary bond and file it with County Clerk. *See*, § 775.037, Texas Health and Safety Code.

2. Establish the ESD's territorial boundaries.

A map of the territorial boundaries of the ESD must coincide with the boundaries described in the order calling for the election to create the ESD. The local Central Appraisal District and Tax Assessor-Collector should also be consulted in the creation of this map and provided with a copy for future use.

3. Obtain estimates of taxable value.

The local Central Appraisal District should provide estimates of taxable value for the ESD, which reflects the type of tax revenue that should be available to the ESD. The local tax assessor-collector may also be consulted. Each of these entities may require a contract for the provision of its services, but it should be noted that the local central appraisal district and the tax-assessor collector are mandated by statute to provide these services to the ESD.

4. Retain an attorney.

This may be the first step in establishing the ESD, as competent legal advice is necessary to ensure the proper procedures for the ESD and its operation. All political subdivisions of the State of Texas require legal counsel, and an ESD is no different. An attorney can assist you in understanding the applicable law affecting an ESD's operations and ensuring conformance with all applicable statutes and regulations. The local county or criminal district attorney generally cannot serve as legal counsel for the ESD.

5. Select a permanent mailing address.

There must be a permanent address either at a permanent building or a post office box.

6. Obtain necessary supplies, including office supplies and materials, as well as binders for maintaining the following:

- a) Notices of Meetings.

Notice of meetings is required under the Texas Open Meetings Act, and should be posted in accordance with Chapter 551, Texas Government Code. For ESD's in less than four counties, § 551.054 sets forth the requirements to notice any meeting of the

Board. The ESD is required to post notice of the meeting at least 72 hours before the scheduled time of the meeting. The district should consult with appropriate legal counsel to ensure compliance with not only this chapter, but other requirements of state law.

b) Minutes.

A note pad may be used for meeting notes until the permanent official copy of the minutes is completed, usually through a computer word-processing program. Most ESDs use computer software for preparing the final minutes. A good filing system is required and should include approved minutes.

c) Resolutions.

This also should be a binder with removable pages for permanent recording of formal orders or directives, which may be in the form of resolutions.

d) Contracts.

It is recommended that any contracts entered into by the ESD, e.g., contracts with local emergency services organizations, other state or local governmental units, and lenders for the acquisition of real or personal property, be maintained in a separate binder for easy reference and use. An ESD cannot pay an emergency services organization or other entity to provide emergency services without a contract in place. All contracts, even if no longer in effect must be maintained as required by state law.

e) Other supplies could include:

- ESD seal;
- Cash receipts/disbursement journal, a computer program would be very helpful;
- Receipt book;
- Ledgers, contained in a computer program;
- Stationery;
- Tape recorder to record meetings, although this is not recommended generally; and,
- Office equipment, such as a computer, gavel, etc.

7. Obtain insurance.

Investigate all possible sources that may provide insurance. Consult with appropriate carriers and acquire all appropriate insurance. The Texas Fire Fighters' Pension Commission may be able to provide insurance for ESD Board members while the Texas Association of Counties (TAC) may offer insurance to ESDs. The Texas Forest Service has a vehicle liability insurance pool program for fire departments. In addition, there are commercial providers of insurance for the ESD, including workers' compensation, liability, and errors and omissions insurance. It should also be noted that if the ESD will be contracting with an existing emergency services organization to provide emergency services to the ESD, the emergency services organization may have a policy that can easily be amended to include the necessary insurance for the ESD's operations.

8. Retain a certified public accountant.

Accountability is very important as well as preparing for the annual audit. A CPA can be very helpful in these areas.

9. Establish the ESD's fiscal year.

The ESD's fiscal year may coincide with the county's fiscal year, the State of Texas' fiscal year, a calendar year, or any other fiscal year deemed appropriate by the Board, but generally, an ESD should maintain either a calendar year or the local county's fiscal year.

10. Select an official ESD depository (bank).

The ESD shall designate one or more banks to serve as depositories for funds of the ESD. All deposits must be secured by Federal Deposit Insurance Corporation (FDIC) or in the manner provided by law for the security of county funds. The County already does this and the ESD may want to consult with the local county in the selection of a depository. *See, §775.072, Texas Health and Safety Code.*

Note that all disbursements from all ESD accounts must be made by check, which must be signed by the treasurer or the assistant treasurer and by the president or the vice-president. Any disbursement over \$2,000 must first be approved by the Board. *See, § 775.073, Texas Health and Safety Code.*

11. Adopt a temporary or interim budget.

An ESD may adopt an interim budget at least until the start of the first full fiscal year, but generally no newly-created ESD will have funds until the following fiscal year. A budget is required before adopting a property tax rate, and each newly-created ESD should consult with its emergency services providers, the county, and other districts to determine the needs of its service providers, the provision of services until tax revenue is available to the ESD, as well as the experience of other entities located in the county to assist in determining the appropriate initial tax rate of the ESD. It should be noted that public hearings are not required, but may be appropriate before an ESD adopts its initial tax rate. Thereafter, the ESD will be required to follow the applicable Truth in Taxation statutes and regulations in adopting any subsequent tax rates, including notices, publication of notices, and public hearings. No funds should be expended by the ESD or its contracted emergency services providers unless they are provided for in a budget adopted by the ESD and its contracted emergency services providers, except in an emergency. The ESD has a limited ability to borrow money in order to have funds until the first tax revenues are collected, and legal counsel should be consulted.

12. Conduct a needs assessment.

The needs assessment should identify all of the problems facing the ESD and all of the expected resources for the provision of fire prevention, fire fighting and/or emergency medical services.

The assessment should start with a detailed analysis of the coverage area, including:

- Identification of all of the property and structures;
- Identification of fire hazards;



- An evaluation of the existing fire fighting and/or EMS organizations;
- Identification of weak spots in the fire fighting and/or EMS capabilities and manpower;
- Identification of physical barriers such as rivers, lack of road access, etc.; and
- Identification of financial resources.

The best way to begin this assessment is to call a meeting of all the fire and/or EMS chiefs or supervisors that will provide emergency services in the ESD, and discuss current assets, needs, and long-term planning. Such meetings should always include a representative of the governing body of the proposed emergency services providers, such as the president of the volunteer fire department board of directors or the appropriate representative of a municipality.

13. Identify additional financial resources.

In addition to an ESD's property tax revenue, other resources may be utilized for equipment, personnel, or other needs. Possible sources include, but are not limited to:

- Community Development Block Grants administered by the Texas Department of Rural Affairs (for small rural areas only);
- Foundations and charities;
- The U.S. Department of Homeland Security;
- Private corporations and businesses;
- Resource Conservation and Development;
- The Texas Forest Service;
- The Texas Commission on Fire Protection; and,
- The U.S. Department of Agriculture Rural Development.
- Additional information can be found in Section E, Contacts and Web sites for this guide.

14. Designate a specific newspaper for publication of notices as required by law.

Identify an official newspaper for publication of ESD notices, etc. There are specific requirements for such a designation, and legal advice should be solicited in relation to this requirement.

15. Identify and review the existence of any and all mutual and automatic aid agreements between fire and EMS departments located within the ESD that may also contract with the ESD to provide services.

16. Determine an emergency services delivery strategy.

Determine which entity or entities will be in the best position to provide emergency services to the ESD and to which areas of the ESD, if not the ESD itself. Enter into written contracts for providing services throughout the ESD. There are minimum requirements for such agreements, and legal counsel should be consulted in relation to establishing and maintaining these relationships.

17. Develop goals.

The development of long- and short-term objectives should be used to identify the steps to be taken to accomplish goals in the provision of emergency services within the ESD.

18. Adopt a records retention resolution and appropriate retention schedules as required by law. Local Government Code, Title 6, Chapter 203, Section 203.021, 203.022, and 203.023.

## **2. INTRODUCTION TO BOARD SERVICE**

*In this chapter, as in the entire document, "Board" refers to the ESD Board of Emergency Services Commissioners. "ESD" refers to an emergency services district.*

The following is provided as a brief overview of the many highlights of the powers and responsibilities of all ESD Board members. Because this information is not all-inclusive, readers are encouraged to review Chapter 775 of the Health and Safety Code and consult with legal counsel.

### **Board Basics**

#### **Terms of Office**

Commissioners serving on ESD Boards are appointed by the county commissioner's court, except in the case of an ESD located in more than one county or an ESD in a county with a population of more than 3 million, in which case the Board is elected by the registered voters of that district and the term of office is four years.. The term of office for all appointed ESD commissioners is two years. . See, §§ 775.034, 775.0345, 775.035, 775.0355, Texas Health and Safety Code.

*ESDs located wholly in one county.*

The County Commissioner's Court re-appoints current ESD Board members or appoints successors as terms expire. For newly created ESDs, see, "Appointment of ESD Commissioners" in chapter 1 of this Guide and §§ 775.034, Texas Health & Safety Code.

***ESDs located in more than one county and ESDs located in a county with a population of more than 3 million (Effective 1-1-10)***

**ESD commissioners located in more than one county or in a county with a population of more than 3 million are elected by the registered voters in the ESD. The county judges in each county served by the ESD shall mutually establish the most convenient day of either the second Saturday in May or the first Tuesday after the first Monday in November to hold elections for the Board. §§ 775.0345**

The ESD commissioners' terms of office begin 30 days after canvassing of the election results. The two commissioners who received the fewest votes serve terms that expire December 31 of the second year following the year which the election was held. The other ESD commissioners serve terms that expire on December 31 of the fourth year following the year in which the election was held. The ESD board shall then select one of the authorized uniform election dates for subsequent annual elections. See, §§ 775.0345, 775.035, 775.0355, Texas Health and Safety Code.

## Statements and Oaths of Office

Before beginning duties, each newly appointed or elected ESD Commissioner must be officially sworn in, usually by the county judge or other person authorized to give oaths. The Secretary of State provides the required forms and instructions for the necessary Statements of Office and Oaths of Office that must be completed by the ESD Board before conducting any business. Legal counsel should be consulted before conducting any business of the newly created ESD.

*(See also, "Appointment of ESD Commissioners" in chapter 1.)*

## Selection of Officers

The ESD Board shall elect from among its members a president, vice-president, secretary, treasurer, and assistant treasurer to perform the duties usually required of these offices. The office of secretary and treasurer may be combined, and if this is done, then there is usually one member who does not hold an office as an officer of the Board. See, § 775.037, Texas Health and Safety Code. There is no requirement as to the length of the terms of these offices, and, theoretically, officers may be chosen at each meeting (assuming such an action is properly noticed as required by the Texas Open Meetings Act), but, generally, officers are elected at the first meeting of the Board after January 1 of each year.

## Bonding of Commissioners

The ESD treasurer must execute and file with the county clerk a bond in an amount to be determined by the county judge(s). § 775.037, Texas Health and Safety Code. Though not required by law, all Board members may be bonded, and at a minimum, the treasurer and assistant treasurer, if any, should be bonded.

## Compensation

ESD Commissioners may be compensated at the rate of \$50 per day while actively performing ESD work not to exceed \$3,000 per year plus reasonable and necessary expenses incurred while performing official duties. § 775.038, Texas Health and Safety Code. It is recommended that commissioners not be compensated, and the Board should consult legal counsel on this matter.

## ESD Powers and Duties

All ESDs are required to follow the specific authorizations and regulations stated in Chapter 775 of the Health and Safety Code (or Chapter 776, if that type of ESD is created). The list below provides only some of the important requirements of the Code, and an ESD should consult legal counsel for other requirements that may apply. Commissioners must personally review Chapter 775 or Chapter 776 for more current and detailed information. It should be noted that Chapter 775 and Chapter 776, Texas Health & Safety Code, may be amended during any regular or special session of the Texas Legislature, and the most recently enacted statutes should be used.

1. ESD funds may be disbursed only as provided by Chapter 775, Texas Health & Safety Code. § 775.073, Texas Health and Safety Code. Any amount of more than \$2,000 shall be a sworn itemized account covering the expenditure that is presented

to and approved by the Board prior to payment. *Id.*

2. **Upon request from a commissioner's court in which the district is located, Chapter 775 ESDs shall provide a written report regarding the district's budget, tax rate and debt service for the preceding fiscal year. The request for report must be made on or before December 31 and the report must be provided by no later than the following February 1. (Effective 9-1-2009)**
3. Chapter 775 ESDs are required to prepare and file with the commissioners court of each county that contains any part of the ESD on or before June 1 of each year an audit of the ESD's fiscal accounts and records. § 775.082, Texas Health and Safety Code. This audit must be performed by an independent certified public accountant or firm of certified public accountants licensed in the State of Texas, unless the commissioners court by order requires the audit to be performed by the county auditor at least 120 days before the end of the ESD's fiscal year. § 775.082(c), Texas Health and Safety Code. ESDs located in more than one county must also provide a written report not later than February 1 of each year to the commissioners' court regarding the district's administration for the preceding calendar year and the district's financial condition. § 775.036(a) (4), § 775.036 (d), Texas Health and Safety Code.

Pursuant to § 775.083, Texas Health and Safety Code, ESDs shall on or before January 1 of each year file an annual report with the Texas Department of Rural Affairs. The website for filling this report is:

<http://www.tdra.state.tx.us/index.php/Home/ESD+Information>.

§ 775.037, Texas Health and Safety Code.

4. All ESDs shall further render such reports as may be required from time to time by the State Fire Marshal and other authorized parties or agencies.
5. ESDs may levy and enforce the collection of taxes as prescribed by Chapter 775 of the Health and Safety Code. *See*, "Ad Valorem Taxation," below, and § 775.031, Texas Health and Safety Code.
6. ESDs may accept and receive donations for funds and/or services. § 775.031, Texas Health and Safety Code.
7. ESDs may issue bonds and notes in the one or more issues that are payable from and secured by liens on and pledges of taxes and/or revenues. § 775.076, Texas Health and Safety Code. No bonds issued under this provision may be sold without prior approval by the registered voters of the ESD with consent from the commissioners court. In addition, ESDs may borrow money and make other financial arrangements to purchase real property or emergency services equipment or construct emergency services facilities in the amount and subject to a rate of interest or other conditions the Board considers advisable. § 775.085, Texas Health and Safety Code. This section should be consulted prior to obtaining any such loans to ensure compliance with its specific requirements.
8. Any expenditure exceeding \$50,000, with the exception of items specified by the statute must be submitted for competitive bids. § 775.084, Texas Health and Safety Code. The ESD may accept or reject any or all bids.

9. ESDs may lease, own, maintain, operate, and provide fire engines/ emergency ambulances and other necessary or proper fire protection/EMS equipment and machinery needed to respond as needed to prevent loss of life or serious personal injury from fire and other hazards or they may contract for such services. § 775.036, Texas Health and Safety Code.
10. ESDs may lease, own, and maintain real property, improvements and fixtures thereon, suitable and convenient for housing, repairing and caring for fire-fighting/EMS equipment. § 775.036, Texas Health and Safety Code.
11. ESDs may contract for fire/EMS services from counties, volunteer departments or cities and may enter into mutual aid contracts for vehicles, equipment, or goods from other cities/volunteer fire/EMS departments. § 775.036, Texas Health and Safety Code.
12. ESDs may cause inspections to be made pertinent to the causes and prevention of fires therein, and may promote such educational programs, as it may deem proper to more fully carry out the purposes of the Act. § 775.036, Texas Health and Safety Code.
13. Chapter 775 ESDs may perform other acts necessary to carry out the intent of that chapter. § 775.031, Texas Health and Safety Code. Chapter 775 ESDs may also commission a peace officer or employ a person who holds a permanent peace officer license to inspect for fire hazards any structure, appurtenance, fixture, or other real property located in the district and adopt procedures to order the owner or occupant of the property that fails an inspection to correct the hazardous situation, create a district fire marshal if the county does not have a county fire marshal, and bill for services. See, § 775.031, 775.036, and 775.100, *et seq.*, Texas Health and Safety Code. Chapter 776 ESDs may require inspections to be made in the district relating to the causes and prevention of fires, medical emergencies, or other disasters. § 776.035(b), Texas Health and Safety Code.
14. ESDs generally have no jurisdiction or general authority over contracted volunteer fire/EMS departments or their investments, as they are separate legal entities, usually non-profit corporations. But with that said, ESDs have full authority over the funds that are provided to the contracted entities. A contract mutually agreed to by both parties that defines the responsibilities of both parties is necessary to establish the services to be provided, the compensation to be received, and the authority to act or interact between the contracted parties.
15. Although association membership fees may burden some ESDs, consideration should be given to joining the State Fireman and Fire Marshal's Association, the Texas State Association of Fire and Emergency Districts (SAFE-D), and any other professional organizations as soon as financially feasible. SAFE-D provides continuing education, training, seminars, and statutorily required courses for its member ESDs. These entities' materials and assistance will be of tremendous value to ESD commissioners, regardless of how long the ESD has been in operation.
16. In the event that there is an interest in dissolving an existing ESD, § 775.052, *et seq.*, provides the procedures for such a process.

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### **Ad Valorem Taxation Authority**

An ESD shall annually impose an ad valorem tax on all real and personal property located in the district and subject to district taxation for the district's support and the purpose authorized by either Chapter 775 or Chapter 776. Currently, for new ESDs, the maximum ad valorem tax rate is ten cents per \$100.00 valuation, but existing ESDs may have rates that vary from two cents to ten cents per \$100.00 valuation. *See*, § 775.074, Texas Health and Safety Code; § 776.075, Texas Health and Safety Code; Texas Constitution, Art. III, Section 48-e.

### **Maximum Ad Valorem Tax Rate**

As stated above, the maximum ad valorem tax cap allowable by law is ten cents per \$100 valuation. A newly created ESD does not require voter approval to vary this rate up to the maximum allowed by the constitution on a yearly basis.

The expected amount of tax revenues from various tax rates is available from the central appraisal district of the county or counties served by the ESD. Be prepared to provide the appropriate appraisal district with the exact ESD boundaries in order to determine the taxable value within the ESD.

### **Voter Approval**

Voters within certain existing ESDs must approve any increase in the, maximum ad valorem tax rate. Most of these ESDs were either converted from a Rural Fire Protection District (RFPD) by the Texas Legislature, or had a statutory or constitutional limit on the maximum tax rate it could adopt. *See, e.g.*, § 775.026, Texas Health and Safety Code; Chapter 794, Texas Health & Safety Code (Repealed). The constitutional maximum tax rate for the old RFPD was \$0.03 per \$100 valuation, and this maximum rate continued after the legislative conversion of RFPDs to ESDs. In addition, some ESDs and/or RFPDs that were co-existing had a statutory maximum ad valorem tax rate. The voters of such an ESD can vote to approve an increase in the maximum ad valorem tax rate up to the Constitutional limit of ten cents per \$100.00 valuation. The ESD Commissioners may set the annual tax rate up to the lower of the constitutional maximum ad valorem tax rate or the tax rate allowed by previous law.

Chapters 775 and 776 set forth the procedures for increasing the maximum ad valorem tax rate of an ESD. *See*, § 775.0745, Texas Health and Safety Code; § 776.075, Texas Health and Safety Code. It should be noted that such elections are governed not only by either Chapter 775 or 776, but also other applicable law, including the Texas Election Code and the United States Voting Rights Act, and legal counsel should be consulted before any such election is contemplated.

If approved by the voters, the maximum ad valorem tax rate may be increased to the rate authorized by the election for the following year.

*The Texas Department of Rural Affairs serves as a resource, not an advocate, for the establishment and the maintenance of Texas ESDs. Although the agency may provide information regarding the adoption of taxes to support ESDs, TDRA does not take a position on individual ESD tax rates. The decision to establish an ESD and its tax rate is strictly local.*

### **A Word About City Funding**

A municipality located in a proposed ESD may choose to not include its territorial or extraterritorial jurisdiction in the ESD. If a municipality consents to the creation of an ESD in its territorial or extraterritorial jurisdiction in an ESD, that municipality may contribute funds over and above the taxes its citizens pay to the ESD in return for a higher level of service for the corporate area, but generally municipalities do not contribute to the operation of emergency services provided by an ESD. An ESD should consult legal counsel before proceeding with any such funding. If a city is not a part of the ESD, the ESD may also contract with that city for the city to provide services to all or part of the ESD.

### A Word About County Funding

At its discretion, a county may assist a new ESD or its emergency services providers to provide emergency services; however, a county is not required to provide any funds to the ESD or its emergency services providers. The county can contract with the ESD to provide services to its citizens. A county may also provide workers compensation insurance for volunteers.

### **Tips for ESD Commissioners**

Serving as an ESD Commissioner is both rewarding and challenging, professionally and personally. Below are some time-tested tips for juggling Board responsibilities with personal activities.

#### **Good Things to Do**

1. Allow yourself enough time to be effective.

Study and discuss issues with your citizens, the county and city leaders in your area, and keep yourself informed of what is happening in the district.

2. Pace yourself.

Limit the number of scheduled Board meetings. Set some priorities, recognize the need to spend time with your family, and don't burn yourself out. Recognize that life – and the ESD – is dependent on a lot of things you have little control over. ESDs are required to have at least one regular monthly meeting, and an ESD may have as many special meetings as necessary to properly conduct its business. § 775.036(a) (1), Texas Health and Safety Code. Although special meetings are not that common, each ESD will have two to three special meetings or public hearings each year in addition to its regular meetings, particularly during the time the ESD is setting its tax rate to comply with the requirements of the Texas Property Tax Code and Truth in Taxation.

3. Never over promise and under deliver.

Remember, a commissioner is just one of five Board members, and an individual commissioner cannot commit the ESD to any specific action.

4. Treat everyone the same and be consistent.

While a commissioner is part of a separate political subdivision of the State of Texas that does not answer to anyone other than its citizens, it is advisable and practical to keep all other elected or appointed officials in your county and district aware of the ESD's actions and plans. In addition, the citizens of an ESD have a very basic right to know of an

ESD's activities, and commissioners are servants of their constituents.

5. Develop policies and procedures that provide opportunity for adequate oversight of the ESD and any emergency services organizations with which it contracts. For example, having a good purchasing policy may ease time required to review claims or resolve discrepancies, and any emergency services provider contracted by the ESD is also required to follow § 775.084, Texas Health and Safety Code, in the expenditures of ESD funds. Also, the District may adopt specific procedures to govern its meetings in addition to, for example, adopting Robert's Rules of Order, such as allowing the president to vote on issues before the Board, when to hold regular meetings, placing items on the agenda for action by the Board, and performance expectations for emergency services providers of the ESD.

6. Always work with people as if they control your future.

You are the public's servant, and for the ESD's future, all interested parties should be consulted as appropriate.

7. Take your budget preparation job seriously.

The budget determines what the ESD may or may not accomplish in the coming year. The budget is the biggest policy development tool available to govern the ESD. When budget cutbacks are essential, refrain from cutting activities that are vital to the critical operations of the ESD. An ESD cannot adopt a tax rate without an adequate budget.

8. Be alert for the little things.

The little things are the things which always seem to grow and come back to get you.

9. Establish policy statements.

A policy statement is a declaration of a governing body's principles, activities, plans and intentions that serve as the framework within which the body operates. Policy statements let staff and the public know how a governing body governs, and alleviates the vague "that's the way it's always been done" perspective that is not good enough to either stay out of trouble or get things done.

10. Maintain the infrastructure.

Always adequately maintain existing services, equipment and resources before taking on any new projects. Deferring maintenance to the future simply shifts your troubles to those who follow you in the future.

11. Formalize your personnel rules and regulations.

Make sure the personnel rules and regulations are clear, both for the Board and for any of the ESDs emergency services providers. For example, if the ESD contracts for the provision of emergency services make sure your contractor has appropriate standard operating guidelines and procedures for personnel matters. Once the rules are established, board members should avoid the temptation to get involved in personnel matters, particularly of the contracted emergency services providers; however, this sometimes cannot be avoided, and any involvement must be with the consent of the Board after an appropriately noticed meeting.



12. Give appropriate notice for all meetings.

Even if it is a regular meeting where everyone in town knows the time and place, the law requires you to post a notice of the meeting in compliance with the applicable provisions of the Texas Open Meetings Act. It is recommended that an ESD make sure and establish procedures with the County Clerk for the filing and posting of ESD meetings as required by law, and maintain a consistent method of notifying the public of any meetings of the Board. If a major issue is to be considered, publish a special notice. If you know someone who is directly involved on the agenda, attempt to give them adequate notice, even if it is not required by law.

13. Distribute your board meeting agenda several days before each meeting.

It should be no secret what you are going to discuss, and no action can be taken on any item unless it has been properly posted on the agenda and the notice of the meeting. In addition, a planned agenda permits orderly meetings. An ESD, like any other entity covered by the Open Meetings Act cannot simply post, for example, a meeting with “Old Business” and “New Business.” Each item must be set forth for discussion and appropriate action, and a commissioner should review the meeting notices of the county and other entities to make sure the ESD notice is consistent with applicable law and local practice.

14. Have as few closed meetings as possible.

The law is very specific as to when an ESD or other governmental entity may adjourn into a closed meeting, and the courts have been very exact in interpreting this law. Commissioners are there to represent the public; do not hide anything from them as your attempt to do so will certainly result in trouble. Meticulously follow the applicable law for closed meetings and always consult legal counsel before conducting such a meeting.

15. Keep your constituents informed.

Lack of proper communications is one of the biggest problems of ESDs – or any other public body for that matter. Always keep the public informed of the ESD's activities. To achieve this goal, use the media to your advantage, and learn to work with your local media representatives. Establishing an open line of communication with them may increase the likelihood of publication of your news releases, editorials, and airing of your public service announcements.

16. Keep your employees informed – particularly those on the front line who make decisions or are in frequent contact with the public.

17. Appoint citizen advisory committees when you need them, but be prepared to follow their advice if you appoint them. Appointing your opposition to a useful committee can let them work for you, instead of against you.

18. Hire or appoint the best people you can and give them as much responsibility as they can and will handle.

19. Charge your employees with being responsible for coming up with new ideas and identifying better ways to serve the public, deliver services, raise funds, save costs, etc. Listen to what they have to say.

20. Have the ESD attorney attend your board meetings, if possible, and always keep your attorney advised of what you are doing so expensive or embarrassing issues do not arise.
21. ESD officials should accept their leadership responsibilities, including selling new programs to the public. Staff charged with performing public relations duties should act as if they were elected.
22. Make sure you have a good financial accounting and reporting system. Some ESDs have encountered financial troubles simply because they spent more money than they had, and nobody knew it.
23. Board decisions must be reasonable and prudent. The last thing any ESD wants is trouble. Keep your ESD squeaky clean by knowing the issues and opportunities and making good decisions based on that information.
24. Define what “trouble” means to you. Realize that you work in a fish-bowl environment; everything you do – and every action you take – is open to public scrutiny. Every issue you consider should be handled in a straight forward manner and to the best of your ability.

Keep in mind that no matter how diligent you are, your decisions will affect many people, and many times you may make unpopular decisions. If you're diligent and things don't turn out the way you think they should, no one can accuse you of improper motives, and you will know you did what you thought was proper. After all, even public officers and employees can make mistakes.

25. Remember that volunteer to the emergency service entities are very valuable and provide a great savings to the district. They should be recognized as such and efforts made to work together for the good of the tax payers as emergency services are provided.

### **Things to Avoid**

1. Never give quick answers when you're not sure of the real answer. Offering inaccurate information for the sake of responding immediately to a question is far worse than the presumed embarrassment of saying that you don't know the answer. Simply saying something to the effect of, "I'm not certain about that, but let me check on it and get back with you" is always an acceptable, professional response. Most importantly, never misrepresent the truth when responding to any inquiry.
2. Don't be stampeded into action. Always focus your attention on the long-term interest of the public you serve. Your job is to find viable options to meeting public needs without being pushed off balance by special interest groups. You will serve your District well if you listen carefully and base your decisions and actions on what will provide the most benefit to the most people.
3. Don't spring surprises on fellow board members or ESD staff, especially at formal meetings. If a matter is worth bringing up for discussion at a meeting, it is worth putting on the agenda. Surprises may get you some publicity, at the embarrassment of others, but tend to erode the “team” approach to governance and cripple the confidence of your team members.
4. Don't bypass the system. Always stick to policy and avoid personal involvement in day-to-day operations.

5. Don't let others bypass your system. Insist that bond salespersons, equipment suppliers and other vendors' first work with the appropriate staff or ESD representative. If direct contact with board members is advisable, vendors should meet with the board as a whole, not individually.
6. Don't expect your board attorney to be an expert on every matter. ESD government is complex, and most attorneys are not ESD experts. On occasion, you will need outside counsel and it will be a good investment of public funds.
7. Don't act as if the ESD operates in a vacuum. ESDs must work within the intergovernmental system to be effective. Keep in contact with your federal, state, county, city and school officials. Use your associations.
8. Don't hesitate to budget money for your officers and employees to attend meetings and seminars. Meetings, seminars, conferences, workshops and other events provide learning opportunities and personal contacts, which can be valuable to your ESD.

### 3. BOARD MEETINGS

*In this chapter, as in the entire document, "Board" refers to the ESD Board of Emergency Services Commissioners. "ESD" refers to an emergency services district.*

Texas law requires each ESD Board to meet at least once each month and an ESD should, by resolution, designate a regular time and location for each meeting. The requirements state that:

- Each meeting must have an agenda that lists every item upon which action is to be taken;
- Proper minutes and records of acts and proceedings must be kept; and
- All meetings must be open to the public unless they meet the specific criteria for a closed meeting, as set forth in the Texas Open Meetings Act, Chapter 551, Texas Government Code. All records are open to the public under the open records act.

Texas law also requires that each commissioner take and complete Open Meetings Training as required by § 551.005, Texas Government Code, and you should consult your legal counsel in relation to this required training. The following is included to serve as a brief review of typical meeting procedures. Web and DVD training is provide to allow completion of this requirement. DVD is available from the Texas Attorney Generals office as well as TDRA.

#### **Types of Meetings**

Generally, three types of meetings are recognized for conducting official Board business: regular, special, and emergency. A closed meeting may or may not be appropriate or legal for any of these three types of meetings and only when specifically allowed by the Texas Open Meeting Act

#### **Regular Meetings**

Regular meetings are generally held at the same location, day, and time of each month, e.g., 7:00 p.m. on the third Wednesday of each month. Agendas for these meetings serve as written notice of the date, hour, place, and subject of each meeting under the Texas Open Meetings Act.

Notice of any meeting of a governmental body must be posted in a place convenient and readily accessible to the general public at all times for at least 72 hours before the scheduled time of the meeting. For ESDs extending into fewer than four counties, the notice is to be posted at the administrative office of the ESD and provided to (filed with) the county clerk of each county served by the ESD. *See*, § 551.054, Texas Government Code. The clerk, not an ESD commissioner or his designee, is required to post the notice of the ESD meeting on a bulletin board at a place convenient to the public in the county courthouse. *Id.* For ESDs extending into four or more counties, the notice must be posted in the administrative offices of the ESD and provided to the Texas Secretary of State and county clerk of the county in which the administrative office of the ESD is located. *See*, § 551.053, Texas Government Code. Both the secretary of state and county clerk are then required to post the notice in a place convenient to the public at their respective offices.

#### **Special Meetings**

Special meetings are those meetings that are not regular meetings of the ESD, such as additional meetings in a particular month or public hearings required by other applicable

law, such as the Texas Property Tax Code. These meetings require the same notice as with any other meeting under the Texas Open Meetings Act. A special meeting is not necessarily an emergency meeting.

### **Emergency Meetings**

Emergency meetings may be held to act upon matters of urgent public necessity. § 551.045, Texas Government Code. The notice of an emergency meeting must be posted following the rules for posting of the regular meeting with the exception that the notice must be posted at least 2 hours before the emergency meeting.

An emergency or an urgent public necessity exists only if immediate action is required of an ESD because of an imminent threat to public health or safety or a reasonably unforeseen situation.

When posting a notice of an emergency meeting, the ESD must clearly identify the emergency or urgent public necessity in the notice, and, in addition, the presiding officer or member of the ESD who calls an emergency meeting must provide notice to the news media of the meeting by telephone or telegraph, and only to those members of the news media that have previously filed a request for the notice and agreed to reimburse the ESD for the cost of providing the special notice. *See*, § 551.047, Texas Government Code. Needless to say, an ESD rarely, if ever, will have a need or justification for calling an emergency meeting, and it should be noted that situations such as a motor vehicle accident, failure to previously notice a particular agenda item, or such other situation short of a natural disaster are generally not the type of situation that would justify an emergency meeting.

### **Executive (Closed) Sessions/Meetings**

A closed meeting, sometimes referred to as an executive session, is a meeting to which the public does not have access. § 551.001(1), Texas Government Code. An ESD has very few opportunities for such a meeting, and the most common exception to the open meetings requirement that may be used by an ESD is for a meeting with its attorney for advice about pending or threatened litigation, a settlement offer, or on a matter in which the duty of the attorney under the Texas Disciplinary Rules of Professional Conduct clearly conflicts with the Open Meetings Act. § 551.071, Texas Government Code. In short, there are few times when such a closed meeting is appropriate, but legal counsel must be consulted (and more importantly, present) before such a meeting takes place.

Other exceptions that allow for a closed meeting may be:

- Discussion on the purchase or sale of real estate, § 551.072, Texas Government Code;
- A discussion of the employment, appointment, evaluation, reassignment, duties, discipline or dismissal of an employee or to hear complaints against such official or employee, § 551.074, Texas Government Code;
- Discussions of deployment or implementation of security devices or personnel for security measures, § 551.076, Texas Government Code;
- Discussions involving economic development activities, § 551.087, Texas Government Code; and/or
- Discussions involving gifts that are being made to the ESD when public discussions might jeopardize the transaction, § 551.073, Texas Government Code.

In the event there is necessity for the Board or other body to retire into a closed meeting, the notice of the closed meeting should be included in the regular meeting agenda and posted in

the same manner as the regular meetings with 72 hours notice. Generally, an ESD Board may go into closed session on any agenda item without prior notice and if an exception specifically applies, but that is not recommended. Usually, all notices of meetings of an ESD should have a disclaimer at the bottom reserving the right of the Board to adjourn into a closed meeting.

#### Executive Session/Meeting Procedures

##### *Before the Closed Meeting*

Before entering into a closed meeting, a quorum must first convene in an open meeting during which the presiding officer must announce that the body is going to go into closed meeting. The announcement is to include the:

- specific time and date that the Board is entering into the closed meeting;
- purpose of the closed meeting; and
- the section of Texas Government Code that authorizes the closed meeting.

For example:

"The \_\_\_\_ County ESD Board is now entering into a closed meeting (or executive session, but closed meeting is preferred) pursuant to the Texas Government Code Section 551.071 to consult with the District's attorney concerning all matters identified in the agenda where the Board members seek the advice of their attorney as privileged communications. The date is \_\_\_\_, and the time is \_\_\_\_."

No action may be taken during the closed meeting.

##### *After the Executive Meeting*

Upon completion of the closed meeting, the quorum must reconvene in a public meeting during which the presiding officer must announce that the body is coming out of its closed meeting.

For example:

"The \_\_\_\_ County ESD Board has completed its closed meeting. The date is \_\_\_\_, and the time is \_\_\_\_."

After the presiding officer has stated the closed meeting is completed and regular meeting has resumed, the presiding officer may then call for a motion to take action on any agenda item discussed in the closed session or may state that no action is required.

#### Executive Session/Meeting Agenda

Although Boards must keep an agenda of an open meeting as required by law, it is unlawful to make the recording or certified agenda of a closed meeting available to the public. A person who knowingly and without lawful authority makes these records public commits a Class B misdemeanor and may be held liable for actual damages, court costs, reasonable attorney fees and exemplary or punitive damages.

FIGURE 1: EXECUTIVE SESSION AGENDA (EXAMPLE)

<p>_____ County Emergency Services District No. __</p> <p><b>CERTIFIED MINUTES - EXECUTIVE SESSION</b></p> <p>Date of Meeting: _____</p> <p><b>A. ANNOUNCEMENT OF PRESIDING OFFICER:</b></p> <p>"The _____ County ESD Board is now entering into executive session pursuant to the Texas Government Code Section 551.101(or subchapter that authorizes this closed session) to consult with the Board's attorney concerning all matters identified in the agenda where the Board members seek the advice of their attorney as privileged communications. The date is _____, and the time is ____."</p> <p>The subject matter of each Executive Session deliberation is as follows:</p> <ol style="list-style-type: none"> <li>1. Record of discussion on item:</li> <li>2. Record of discussion on item:</li> <li>3. Record of discussion on item:</li> </ol> <p><b>B. ANNOUNCEMENT BY PRESIDING OFFICER:</b></p> <p>"The _____ County ESD Board has completed its Executive Session. The date is _____, and the time is ____."</p> <p><b>C. CERTIFICATION</b></p> <p>I hereby certify that this Agenda of an Executive Session of the _____ County ESD Board is a true and correct record of the proceedings pursuant to Tex. Gov't Code Ann. § 551.101.</p> <p>Witness my hand this _____ day of (<u>month, year</u>).</p>
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### **Regular and Emergency Meeting Agendas**

The Board president is responsible for creating an agenda for each regular, special, or emergency Board meeting. Careful consideration should be given to the development of each agenda as the presiding officer of any meeting may not accept any matters for discussion or action unless that item has been properly noticed and placed on the agenda; No action can be taken on any item unless that item has been posted on the agenda for that meeting. However, items may be received as information, on a very limited basis and commissioners are generally not allowed to respond.

### **Building an Agenda**

All Board members may submit agenda items. Agenda items should reach the Board president's office by a set time before the regular meeting. The president will exercise the best judgment in determining the most important items received for placement on the agenda and add other items of business to come before the Board. An item not appearing on the agenda shall not be considered for discussion as a matter of Board business during any Board meeting. However, during a meeting, the Board may receive items as information, but subject to certain very specific limitations.

Any member of the ESD staff or the emergency departments wishing to have an item placed on the agenda shall submit that item, through the normal supervisory channels, to the Board president's office for approval. The president may establish procedures for submission of routine items without his approval.

Any individual or organization representative wishing to have an item placed on the agenda shall submit that item, through the normal supervisory channels, to the Board president's office for approval. The Board president is responsible for notifying such persons when the item has been scheduled.

There are a few simple, easy-to-implement techniques than can help to rearrange, redesign, and streamline your meetings.

The first step is to analyze the importance of each item on your agenda, then organize the items according to what requires the most attention. The following considerations may be applicable when developing an agenda.

#### Emergency Items

If a situation arises in which the president or other Board member(s) can legitimately classify the event as an emergency, as specified in the statutes governing open meetings, that item may be added to the agenda or special meeting with notice posted at least two hours prior to the meeting. In such event, the nature of the emergency must be specified in the agenda and notices given to any who have filed a written request for same.

#### Immediacy Items

Be aware of items that require immediate attention, and place them in appropriate order on the agenda.

#### Policy Impact

Consider placing items which may result in significant, long-term impact early in the meeting. Doing so better ensures adequate time to give proper attention to these important matters.

#### Citizen Interest

Citizen interest can lend additional weight to what might have been routine. Be prepared for constituent participation on items of concern. Structure the agenda to accommodate that interest, but please remember the allowing someone not on the Board to discuss an agenda item may be a violation of the Open Meetings Act, and, generally, the only appropriate place for citizen input may be during a scheduled citizen comment period (with appropriate time limitations), or a public hearing. Do not stumble into a violation of the Open Meetings Act by allowing non-Board members to participate in any part of the discussion on any agenda item. Please consult with legal counsel on the appropriate method of addressing public comment or participation at an ESD meeting.

#### Grouping Items by Subject Matter

Related or contingent items should be listed consecutively under one heading. This alleviates last minute rearranging or rehashing of the same issues.

#### Consent Agenda

Consent agenda items usually have majority support and are considered as an item requiring one motion for approval and one vote.



### Agenda Distribution

The Board president is also responsible for compliance with all open meetings regulations. This includes the Board's proper distribution of the agenda, which is to include:

- Posting the agenda at least 72 hours prior to the meeting at a location available to the public at all times;
- Delivering a copy of the agenda to the county clerk for posting at the courthouse;
- Posting the agenda at public locations within the ESD;
- Delivering agenda packets for all regular and emergency meetings to each ESD Commissioner prior to each meeting. This should afford ample time for each Board member to learn about items before each meeting; and.
- Issuing a copy of the agenda to local governmental entities within the ESD and area media, including newspapers and radio, and television stations (the last three are not required, but may be done as a public service).

### Agenda Archiving

The board must keep a copy of agendas for two years. See Texas State Library and Archives Commission at: <http://www.tsl.state.tx.us/slrn/recordspubs/gr.html>.

FIGURE 2: REGULAR ESD MEETING AGENDA (EXAMPLE)

<p>_____ <b>COUNTY EMERGENCY SERVICES DISTRICT NO.</b>  <b>NOTICE OF REGULAR MEETING</b></p> <p>In compliance with the provisions of Chapter 551, Texas Government Code, notice is hereby given of a Regular Meeting of the Board of Emergency Services Commissioners of _____ County Emergency Services District No. _____, to be held at <u>(location and address)</u> in <u>(city)</u>, TX, at <u>(time)</u>, on <u>(date)</u>.</p> <p>The following agenda items will be discussed, considered and action taken as appropriate:</p> <ol style="list-style-type: none"> <li>1. Call to order and establish quorum.</li> <li>2. Reading and approval of the minutes of the <u>(date)</u> Public Hearing and Regular Meeting.</li> <li>3. Treasurer's Report.</li> <li>4. Report of Service Providers in the ESD:             <ol style="list-style-type: none"> <li>a. Report from representative of _____ EMS Department on emergency or non-emergency incidents to which it responded in the ESD for the Month of <u>(month, year)</u> to the present.</li> <li>b. Report from representative of _____ Volunteer Fire Department on emergency or non-emergency incidents to which it responded in the ESD from the month of <u>(month, year)</u> to the present.</li> </ol> </li> <li>5. Service Providers Presentations             <ol style="list-style-type: none"> <li>a. _____ EMS Department</li> <li>b. _____ Volunteer Fire Department</li> </ol> </li> <li>6. Public Comment (Any individual may make a presentation relevant to the business of the District of not more than _____ minutes to the Board of Emergency Services Commissioners, after executing the proper form, which may be obtained from the Secretary). Consider, discuss, and take appropriate action on the following items:</li> <li>7. Proposals from Service Providers</li> <li>8. Report and possible action on proposal for certified public accounts to conduct audits for the ESD.</li> <li>9. Report and possible action on records retention policy of the ESD.</li> <li>10. Discussion and possible action on TDRA registration/filing for the ESD.</li> <li>11. Report and possible action on establishing an account with the appropriate depositories for the ESD.</li> <li>12. Set date, time, and location for next meeting of the ESD</li> <li>13. Adjourn to executive session with legal council to discuss and take appropriate action on:             <ol style="list-style-type: none"> <li>a. Proposals from service providers</li> <li>b. Contracts with service providers</li> </ol> </li> <li>14. Review and approve payment of bills of the ESD.</li> <li>15. Adjourn.</li> </ol> <p>_____ COUNTY EMERGENCY SERVICES DISTRICT NO. _____</p>
<p>President <span style="float: right;">26</span></p>

## **Meeting Rules of Order**

Adopting rules of order and procedure is the first step in developing meeting procedures. Usually the commissioners will adopt Robert's Rules of Order. At a minimum, ESD Boards may consider that:

- The president, if present, must preside over meetings;
- A quorum of commissioners must be present to take action on any agenda item. (A quorum is a majority of the total number of ESD Commissioners. For example, on a five commissioner board, a quorum is present if three commissioners are in attendance.); and/or
- The Board will follow parliamentary procedures.

### Parliamentary Procedure Highlights

- Under the Rules of Parliamentary Procedure, the presiding officer shall not entertain any dilatory (delaying, harassing, interrupting, or not to the subject) motions.
- The Board may agree to limit debate on any business before it. That agreement should be formalized by a majority vote.
- Any Board member may call for the question on any issue, and upon a second by another member, the issue of the call for the previous question shall immediately be put to vote.
- Passage of the motion to address the previous question shall terminate debate on the motion, amendment or item under discussion, and action will be taken on that item immediately and then the president shall move to the next item.
- Any member may request a roll call vote at any time.

## **Meeting Procedures**

### **Decorum and Debate**

The presiding officer is responsible for maintaining order at all times during meetings. The presiding officer must not permit debate or comments from anyone who has not been recognized to speak.

When two or more members wish to speak, the presiding officer shall name the member who is to speak first. No member shall interrupt another while speaking, except to make a point of order or to make a point of personal privilege.

When the Board considers an agenda item, the presiding officer shall recognize the appropriate individual to present relevant information.

Interruptions during any discussion must be silenced by voice or by the use of a gavel, and, in the event of any person's failure to heed the directions of the presiding officer; the presiding officer may have that individual removed from the room (there is certain statutory authority for this, but be careful when doing so and meticulously follow the applicable law).

### Citizen Participation

The Open Meetings Act allows the public to observe the open portion of an ESD meeting. However, the Texas Attorney General has concluded that the Open Meetings Act does not give members of the public a right to speak on items considered at an open meeting. Such a right exists only if a specific state law requires a public hearing on that item or if state law requires that public comment be allowed on that issue. If an ESD allows members of the public (and this includes representatives of emergency services providers) speak on an item

on the agenda, the Board may adopt reasonable rules regulating the number of speakers on a particular subject and the length of time allowed for each presentation. The ESD must apply its rules equally to all members of the public. While it may seem counterintuitive, the public generally cannot participate in any manner other than observing an open meeting, and comments from the public are not allowed.

An ESD is not required to allow members of the public to speak on agenda items at an open meeting, but they may, at the ESD Board's discretion and under adopted rules, allow the opportunity to speak. It should be noted that if a member of the public is allowed to address the Board in an open meeting as allowed by a specific agenda items, such as "citizen comment," generally, a Board member is not allowed to respond at all to questions from a member of the public. Generally, the only acceptable response to a citizen question during an open meeting is to provide a reference to a specific written policy of the ESD or to request that such an item be place on a later agenda of the ESD for possible discussion and action. At no time should a Board member ever enter into discussions during a meeting of the ESD with members of the public, as this in itself may be a violation of the Open Meetings Act. For more information on this, please see the Texas Open Meetings Act Made Easy, published by the Office of the Attorney General, or consult you legal counsel.

### **Meeting Process**

Regular, special, and emergency meetings are to always be open to the public. All citizens attending any meeting should sign the provided roster, and attendees should be noted in the minutes, either by attaching the sign-in roster or in the minutes. This information will be included in the meeting minutes.

The president shall be the presiding officer at all ESD Board meetings. In the event of the absence of the Board president, the vice-president, shall be the presiding officer. In the event of the absence of the president and vice-president, the Board members present, if comprising a quorum (three members), shall select one of their members to preside at that meeting.

During meetings, Board members should speak only upon being recognized by the presiding officer whose recognition shall not be unreasonably withheld.

The following is presented as a suggested order in which to conduct ESD meetings.

1. Call to order, roll call and certification of a quorum.  
All meetings are to begin at the hour stated.
2. Presentations from the floor or citizen comments.

Presentations regarding noticed agenda items may be invited by the presiding officer. The presenter must identify herself or himself by name and organization represented. The presenter is to remain available until any questions from the Board have received a response and the presiding officer has excused the presenter.

3. Approval of minutes of previous meeting(s).
4. Treasurer's Report.
5. Report of Service Providers.

6. Discussion, consideration and possible action on agenda items. Ordinarily, the presiding officer will follow the agenda as published, however the presiding officer shall have, subject to the approval of the Board, the prerogative of addressing items out of order should such change better accommodate guests or other factors.

7. Board Action.

Following the discussion on each agenda item, having heard all public comment, received all presentations and reviewed any supporting data and facts, the Board may take appropriate action.

### **Meeting Minutes**

The Board secretary is responsible for recording meeting minutes. The minutes are to:

- Record the presence of Board members, ESD or service provider staff, and all guests in attendance;
- Include a brief review of the discussions on all agenda items, in the order presented at the meeting, with identification of each speaker and then, as far as possible, the point or points that were made;
- Reflect all motions made, including who made and who seconded them;
- The outcome of each motion (i.e. whether or not the motion passed), including the roll call vote, if requested;
- The point of any specific comments made by members for the record; and
- Include the name and address of any guests who address the board as well as the specific subject or request presented.

Including verbatim copies of all statements or any extraneous discussions is not required, and is practically impossible.

The Board secretary is responsible for preparing a draft of the minutes after the meeting, and delivering the minutes to the Board president. The Board president is responsible for reviewing the minutes, suggesting changes and approving the draft as appropriate. The secretary revises the minutes as needed and includes copies of the final minutes in the agenda packet distributed to Board members prior to the next regular meeting for the Board's final approval of the minutes at the meeting. Completed and approved minutes shall be open for inspection by the public.

### **Meeting Tips**

- Use fact sheets to summarize highlights and recommendations;
- Use graphic and visual presentations (rather than long, b-o-r-i-n-g reports);
- Use staff resources effectively;
- Establish Board committees;
- Do the homework, setting a reasonable time limit for involvement; and/or
- Establish time limits for individual agenda items, debates, public testimony, or entire meeting.

## 4. LAWS AND REGULATIONS

*In this chapter, as in the entire document, "Board" refers to the ESD Board of Emergency Services Commissioners. "ESD" refers to an emergency services district.*

As a governmental body, an Emergency Services District Board of Emergency Services Commissioners (Board) must comply with all requirements adopted by the Legislature for local governments. These rules provide guidance for the administration of the ESD's operations.

Because all ESDs are political subdivisions, it is important to note that every ESD must follow all applicable laws and regulations, including, but not limited to:

- Audits
- Bidding Procedures/Processes
- Civil Rights
- Conflict of Interest
- Dual Office Holding
- Ethics
- Fair Labor Standards
- Records Retention Policies
- Nepotism
- Open Government
- Open Meetings Act
- Open Records
- Right to Sue and to Be Sued
- Standards of Conduct
- Truth in Taxation

Below are highlights of a sampling of the laws and regulations that govern Board activities. Readers are encouraged to review the text in each statute for the most current and complete details.

### Open Meetings Act

Texas Government Code, Chapter 551 and Chapter 775, Texas Health & Safety Code

- The Board must meet at least one time each month;
- The meetings must be regularly scheduled at a fixed time and place;
- A quorum must be present at each meeting;
- Decisions are to be made by a majority of those present and voting;
- The president must preside, if present;
- Written notice of the date, hour and place of every board meeting, together with an agenda listing all items to be considered at the meeting, must be posted not less than 72 hours in advance of such meeting on a bulletin board accessible to the public both day and night;
- One copy of the notice must be posted at an accessible location in the ESD; and,
- One copy must be posted in the courthouse.

The only exception to the 72 hours posting is an item of such extreme emergency that it cannot wait for the normal posting. In the event of an emergency, that item must be posted at least two hours prior to the meeting. The nature of the emergency must be described in the notice, and if any of the news media has requested information on the item in writing, such media must be notified of the emergency posting.

Note: The courts have held that ignorance of this law is no excuse.

“Open Meetings 2006 Handbook” published by the Office of Attorney General can be found at: . [http://www.oag.state.tx.us/open/publications\\_og.shtml](http://www.oag.state.tx.us/open/publications_og.shtml)

## **Conflict of Interest**

Local Government Code, Chapter 171

Every time an ESD Commissioner participates in contracting with the ESD or owns real property that may be affected by the ESD's actions, the official must consider whether his or her discussion, decision or vote on an item will violate either Texas conflict of interest laws or local conflict of interest provisions.

Chapter 171 conflict of interest laws only cover two types of conflicts of interest:

- **Business Entity Conflicts:** Conflicts due to an ESD Commissioner's substantial interest in a "business entity" that has an issue before the ESD or
- **Real Property Conflicts:** Conflicts due to an ESD Commissioner's substantial interest in "real property" that would be affected by the ESD's action.

### Business Entity Conflicts

There are four ways that a person could be deemed to have a "substantial interest" in a business entity that would raise a potential conflict of interest. A person has a substantial interest in a business entity if the person has stock, other ownership, income and/or close family member with any of the above interests.

**Stock Interest:** Official owns 10 percent or more of the total voting stock or shares of the business entity.

**Other Ownership Interest:** Official owns 10 percent or more or \$15,000 or more of the fair market value of the business entity.

**Income Interest:** Official received 10 percent or more of his or her gross income for the previous year from the business entity.

**Close Family Member with any of the Above Interests:** A close relative of the local official has any of the above types of interest in a business entity. A local official is considered to have the same interest in a business entity that his close relatives have in that business entity. In this context, close relatives of an official would include persons who are related to the official within the first degree by consanguinity (blood) or within the first degree by affinity (marriage). Such relatives would include an official's father, father-in-law, mother, mother-in-law, daughter, daughter-in-law, son, son-in-law, and the spouse of the official.

### Real Property Conflicts

There are two ways that a person could be deemed to have a "substantial interest" in "real property" (such that it would amount to a potential conflict of interest). A person has a substantial interest in real property if he or she has:

**Ownership Interest in the Real Property:** If the official has a \$2,500 or more legal or equitable interest in real property that would be affected by the local entity's action; *or*

**Close Family Member with Ownership Interest in the Real Property:** If a close relative of the local official has a \$2,500 or more legal or equitable interest in real property that would be affected by the local unit's action. An official is considered to have the same interest in a piece of real property that his close relatives have in the real property. In this context, close

relatives of an official would include persons who are related to the official within the first degree by consanguinity (blood) or within the first degree by affinity (marriage). Such relatives would include an official's father, father-in-law, mother, mother-in-law, daughter, daughter-in-law, son, son-in-law, and the spouse of the official.

If a local official has a conflict of interest under the two-part test of chapter 171, the official must take three actions:

1. **File an Affidavit**  
The official must file an affidavit with the local unit's official record keeper stating the nature and extent of his interest in the matter. This affidavit must be filed before any vote or decision on the matter.
2. **Abstain from Discussion on the Item**  
The official must abstain from discussions or other proceedings regarding the item; and  
**Abstain from Voting on the Item:** The official must not vote on the item.

"2010 Texas Conflicts of Interest Laws Made Easy" by the Office of Attorney General can be found at: [http://www.oag.state.tx.us/open/publications\\_og.shtml](http://www.oag.state.tx.us/open/publications_og.shtml)

## **Dual Civil Offices**

Texas Constitution, Article XVI, Sec. 40

It is important that local officials understand in which circumstances they can agree to serve in another public office. This knowledge is particularly important because the acceptance of a second public office can result in an automatic resignation from a person's current public office.

The prohibition against holding two civil offices of emolument is contained in Article XVI, section 40 of the Texas Constitution. An "emolument" is pay or some other benefit, compensation or thing of value received in exchange for the person's service as an officer.

ESD Commissioners are also prevented from holding two public offices if the commissioner could use the power in one office to control and/or impose policies that impact the other office. As an example, one cannot be an ESD commissioner as well as a judge, a county commissioner, or a member of another political subdivision of the State of Texas, such as a city council member, a school board trustee, or a member of a municipal utility district, water district, or other special district.

"Texas Dual Office Holding Laws Made Easy" by the Office of Attorney General can be found at: [http://www.oag.state.tx.us/open/publications\\_og.shtml](http://www.oag.state.tx.us/open/publications_og.shtml)

## **Nepotism**

Texas Government Code, Title 5, Chapter 573

The Nepotism Law is designed to prevent office holders appointing their close relatives to office or employment with the ESD. The law provides that a commissioner may not appoint, confirm the appointment of, or vote for the appointment or confirmation of the appointment of an individual to a position that is to be directly or indirectly compensated from public funds or fees of office if the individual is related to the commissioner within a the second degree by affinity (marriage) or within the third degree by consanguinity (blood).

Exempted from this provision is a person who has been in continuous employee in such office for a period prior to the election or appointment of the officer or member related to such employee in the prohibited degree:

- at least 30 days if the officer or member is appointed;
- at least six months if the officer or member is elected at an election other than the general election for state and county officers; or
- at least one year if the officer or member is elected at the general election for state and county officers.

Other members of the governing body may not vote to hire a person who is a close relative of a public official. The abstention of a public official with the nepotism conflict does not relieve the remaining members from the prohibition against hiring a close relative.

An official who violates the nepotism laws commits official misconduct, which is a misdemeanor punishable by a fine of not less than \$100 or more than \$1000.

The ESD attorney should review each case where there is an appearance of a possible conflict.

“2010 Texas Nepotism Laws Made Easy” by the Office of Attorney General can be found at: [http://www.oag.state.tx.us/open/publications\\_oq.shtml](http://www.oag.state.tx.us/open/publications_oq.shtml)

## **Public Information Act**

Texas Government Code, Chapter 552

The Public Information Act states that all information collected, assembled, or maintained by governmental bodies pursuant to law are ordinance or in connection with the transaction of official business is public information and available to the public during normal business hours. There are specific categories of exceptions, but most would not be applicable to ESDs. Some of the more pertinent exceptions are:

- Recordings of judiciary information deemed confidential by law;
- Information related to litigation;
- Private correspondence and communications of an elected officeholder relating to matters the disclosure of which would constitute an invasion of privacy;
- Drafts and working papers in preparation of proposed legislation;
- Information , which if released, would give advantage to competitors or bidders;
- Trade secrets;
- Information relating to the acquisition of real property;
- Certain records of law enforcement agencies;
- Certain information in personnel files; and,
- Tape recordings or certified agendas of executive sessions.

Unless the information is exempt, the custodian of such information shall make it available within a reasonable time. The local government may charge a reasonable fee for the cost of reproducing such requested material. This law also applies to any contracted emergency services provider of the ESD, and, generally, the records of a volunteer fire/EMS department are public. In fact, the Texas Non-Profit Corporations Act as well as federal law relating to tax-exempt entities makes most volunteer fire/EMS records public.



Please note that the ESD does not make the decision as to whether information is accepted from disclosure – the Attorney General does that. If an ESD believes that certain information is not public information or otherwise not subject to disclosures, then the ESD or its attorney must make a request for a ruling from the Attorney General within 10 days of the request or it is deemed public information. As the laws applicable to the Public Information Act are arcane at best, the advice of legal counsel should also be solicited upon any request for public information immediately.

“Public Information 2010 Handbook” by the Office of Attorney General can be found at:  
[http://www.oag.state.tx.us/open/publications\\_og.shtml](http://www.oag.state.tx.us/open/publications_og.shtml)

## **Purchasing and Contracting**

Government Code, Chapter 2155

The area of purchasing and contracting can be very susceptible to abuse. The ESD may make purchases from businesses in which individual board persons had prohibited interest as long as the interest was declared, the affidavit signed and the involved person refrained from participation. Avoid, if possible, any purchases or contracting with businesses in which ESD Commissioners have an interest in order to reduce the appearance of impropriety.

Beyond this, the next limitation is that the ESD may not enter into any purchase or contract requiring the expenditure of more than \$50,000 without complying with the competitive bidding procedures. The exceptions enumerated in Health and Safety Code, Chapter 755.084 include:

- purchase of real property;
- sole source items;
- emergency expenditures; and,
- contracts for:
  - a) Fire extinguishment suppression services;
  - b) Emergency rescue services;
  - c) Ambulance services;
  - d) Purchase of fuel;
  - e) Purchase of firefighter bunker gear
  - f) The purchase of insurance coverage**
  - g) Repairs funded by a payment made under and insurance claim**

Keep in mind that the Board may adopt a policy setting a lower ceiling above which competitive bids must be obtained. Additional guidance can be found in Local Government Code Chapter 262 and 271. . <http://www.legis.state.tx.us/>

A purchasing manual is available at:

<http://www.window.state.tx.us/procurement/pub/manual/>

**Disposition of Salvage or Surplus Property information can be found under Section 1 Chapter 775, Health and Safety Code, Subchapter 1, Sec. 775.251.**

**Effective: 9-1-2009**

<http://www.legis.state.tx.us/>

## **Liability of ESD**

Health and Safety Code, Chapter 775.031

There is no way to prevent law suits from being filed against a district. However, there are some positive steps that an ESD can take to reduce the risk of being sued. Here are some tips:

- Know as much as possible about the law and be sure that employees, volunteers and contractors stay within the prescribed limits.
- Canvass the ESD's operation to seek out and eliminate potential hazards, such as:
  - unsafe equipment;
  - unreliable equipment;
  - employees and /or volunteers with inadequate training, and
  - unsafe driving practices;
- Seek out competent employees and volunteers and assure that they are properly trained to handle their jobs;
- Establish work rules and procedures to reduce risks;
- Look at operational policies and procedures to assure that unsafe practices do not exist.
- Adopt proper employment policies and practices;
- Obtain appropriate insurance;
- Obtain an attorney (talk to your attorney about your exposures and heed the advice);
- Obtain annual criminal history and driving records checks on all applicants for employment with the ESD or a contracted emergency services provider.

## **Standards of Conduct**

Standards of Conduct are a set of laws that set forth professional standards developed to support the ethics, professional responsibility and behavior of public servants. They are designed to promote honesty, integrity, and impartiality in providing public services. The Standards may also assure nondiscriminatory access to services to the extent that service capacity is available.

The Texas Legislature has enacted series of strict laws regarding bribery, official misconduct and similar offenses. Some of the most important Standards of Conduct laws are highlighted below.

### **Bribery**

Penal Code, Section 36.02

Bribery includes situations where a public officer solicits a bribe or is offered a bribe by another person. The offense requires a benefit to the individual as well as to family members or to others in whose welfare the briber is interested.

Laws regarding bribery apply to any public servant who solicits, accepts or agrees to accept any benefit in return for help with bids and/or other financial transactions (Section 36.08). This section also provides penalties for bribes in connection with contracts, purchases, payments, claims, etc. The public servant commits an offense if he solicits or accepts a gift from a donor who the servant knows is interested in his or her official action.

### **Offering Prohibited Gifts to Public Officials**

### Penal Code, Section 36.09

A person commits an offense if he offers, confers, or agrees to confer any benefit on a public servant that he knows the public servant is prohibited by law from accepting. An offense under this section is a Class A misdemeanor.

“Texas Ethics, Gifts & Honorarium Laws Made Easy” by the Office of Attorney General can be found at: [http://www.oag.state.tx.us/open/publications\\_og.shtml](http://www.oag.state.tx.us/open/publications_og.shtml)

### **Official Misconduct and Abuse of Office**

Penal Code, Section 39.01 Penal Code

This provision prohibits unauthorized exercises of official power and violation of laws related to public office.

### **Misuse of Official Information**

Penal Code, Section 39.03

This section makes it a crime for a public servant to profit from inside information, speculate or aid another on the basis of confidential information.

### **Fair Labor Standards** (*for paid employees only*)

Local governments, including ESDs and their contracting emergency services organizations are subject to the Fair Labor Standards Act (FLSA). Generally, the Act indicates that an employee who works more than 40 hours in a specific work week shall be compensated at a rate of 1-1/2 times the normal salary or granted compensatory time at 1-1/2 hours for each hour of overtime.

The FLSA rules are very exacting and will not permit an employee to volunteer to put in extra time on his regular job at no cost. Any questions should be directed to the ESD attorney.

### **Civil Rights**

United States Code, Section 1983, Title 42

Every person who, under color of any statute, ordinance, regulation, custom, or usage of any state, or territory, subjects or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the constitution and laws, shall be liable to the party injured.

The liabilities extend not only to employees, but to citizens and to uses of property. An example of potential liability could be the Board's decision to let organizations or groups use the ESD's meeting hall for various functions, yet deny one group such access because someone determines that the group was "different".

### **Risk Reduction**

Listed below are steps that an ESD may consider to reduce the possibility of claims and to further to reduce the possibility of the claimant winning.

## **Develop Policies and Procedures**

Policies and Procedures are a set of documents that describe an organization's policies for operation and the procedures necessary to fulfill the policies. They are often initiated because of some external requirement, such as governmental regulations.

To write effective policies and procedures:

- Interview the users of the policies and procedures and create a flow chart or task map of the process from start to finish.
- Convert the information into a written format.
- Talk to the users and confirm that the written word matches the flow chart.

Policies and procedures have many names including but not limited to business policies and procedures, standard operating procedures or SOP, or department operating procedures or DOP.

At a minimum, ESDs may benefit from having operational policies and procedures, which may include:

- Operating procedures;
- Personnel management;
- Financial operations; and
- Contracting for services, supplies, equipment, etc.

A brief overview of these types of policies and procedures is provided below.

It may be prudent to also consider developing policies and procedures for service related activities, such as:

- Responding to fire and/or medical assist calls within and beyond the ESD's boundaries;
- Cleanup following both fire calls and medical assist calls;
- Conducting fire prevention inspections;
- Inspections for fire hazards; and
- Conducting and/or participating in training and fire prevention classes, emergency training and drills.

Once the policy or policies are adopted, the ESD must insure that any staff, volunteers, or other associates have read and understand the policies.

For information or examples of relevant policies, contact another ESD or emergency department which has similar characteristics, a city with a good emergency operation, Texas A&M Engineering Extension Service, a regional council of governments, the Texas Commission on Fire Protection, SAFE-D or the Texas Department of Rural Affairs.

## **Operating Procedures**

Each ESD employee and volunteer should receive adequate training to handle his or her job assignments. The ESD needs to work with staff, vendors, manufacturers, professionals, etc. to develop specific operating procedures that may identify:

- Equipment operation and maintenance
- Specific procedures for employees who operate trucks and equipment. This should include manuals for operation, maintenance and care of equipment, as well as procedures to protect the staff from injuries. For example, in order to avoid problems

such as collapsing a water line or blowing out a hose, employee needs to know the procedures for operating the pumps prior to hooking up to a fire plug and turning on the pumps.

*For complex fire fighting techniques, the Texas A&M Engineering Extension Service, the Texas Commission on Fire Protection, the Texas Forest Service, or other fire departments, which may be able to provide operating manuals. The Texas Municipal League publishes risk management manuals that can help to identify problem areas as well as management techniques. As in many other cases, a neighboring city may have information that would be helpful. Other resources may include the Federal Emergency Management Agency, U.S. Fire Administration and the National Center for Disease Control.*

- Vehicle servicing, including oil changes, brake checks, batteries, etc.
- Follow-up maintenance after fires and/or emergency calls. Who is to do what, how, and when? The equipment must be prepared for the next call.
- Call response protocol
- Who will be in charge and what will be the chain of command during each emergency situation.
- How to respond to a chemical, disease or other biological emergencies. For example, employees and volunteers may need training in how to handle victims and protect themselves as well as the victim.
- Instructions for all activities, from entering a burning building to operating a jaws-of-life to transporting victims, to reduce the opportunity of injuries to personnel.

ESDs may consider working with the Texas Department of Insurance, Texas A&M University, the Texas Forest Service, SAFE-D, other emergency organizations to develop standard techniques and procedures to follow in emergency situations.

### **Personnel Management**

The Board of ESD Commissioners is responsible for administering a written personnel policy that outlines the standards of conduct, job descriptions, general work rules, leave policies, benefits, wage and salary administration, purchasing rules, etc. An ESD and its contracting emergency services organizations should always have clear and legally complaint policies and procedures related to harassment and discrimination as well.

In the event that the ESD contracts for services, the contract should require the contractor to have operating and personnel policies and procedures, including job descriptions.

For assistance in developing personnel policies, job descriptions and other personnel matters, contact the Texas Department of Rural Affairs, the Texas A&M Engineering Extension Service, or county, city, local regional council of governments or neighboring cities.

### **Federal Tax Issues for Firefighters and EMS Personnel**

The Office of Federal, State and Local Governments (FSLG) of the Internal Revenue Service is responsible for promoting compliance with Federal tax laws. A new program was started in 2007 with the first year as an education process. This discussion addresses some of the common questions concerning firefighters, EMS, and their employing organizations that are a part of the first year education. The second year will be a review of emergency services providers with assistance given to allow compliance. The third year will be review that may cause violation to be processed. Review was provided by Steve C. O'Brien, Internal Revenue Agent, Office of Federal, State, and Local Governments, Internal Revenue Service

## Compensation

Generally, tax laws apply to firefighters and EMS in the same manner as for other types of workers. It does not matter whether firefighters or EMS are termed “volunteers”, are considered employees, or are identified by any other name, if the work they do is subject to the will and control of the payer, under the common-law rules, they are employees for Federal tax purposes. The determination of whether workers are common-law employees or independent contractors is the same for firefighters and EMS as for other workers. See IRS Publication 15 at: <http://www.irs.gov/pub/irs-pdf/p15t.pdf>

Employer’s Tax Guide, for more information on determining whether a worker is a common-law employee.

Similarly, it does not matter whether they are paid on a “call” basis, monthly, hourly, etc.; or whether the worker is full-time or part-time. These payments are wages that should be reported on Form W-2, subject to withholding for Federal income tax, social security, and Medicare purposes. Employers are responsible for withholding on these wages and filing Form 941.

If a worker is a common-law employee, any amounts they receive that are not exempt under some special provision, is reported on Form W-2 as wages to the employee. It does not matter what the payments are called.

## Income Tax

Generally, all amounts employees received are taxable for Federal income tax purposes. Some fringe benefits are excluded by specific provisions of law. Some common benefits that may qualify to be excluded are:

- Certain de minimis (minimal) fringe benefits
- Meals provided for the convenience of the employer
- Employee discounts
- Achievement awards
- Health insurance
- Educational benefits.

For more information, see IRS Publication 15-B <http://www.irs.gov/pub/irs-pdf/p15b.pdf> (Employer’s Tax Guide to Fringe Benefits).

Reimbursements for expenses may be excludable from wages if they meet the accountable plan rules, discussed below.

## Social Security Tax

After July 1, 1991, state and local government employees are generally subject to social security tax for wages paid unless they either (1) participate in a qualifying public retirement system, or (2) are covered by a voluntary (“Section 218”) agreement between their state and the Social Security Administration. The requirements for a qualifying public retirement system are discussed in IRS Publication 963 (<http://www.irs.gov/pub/irs-pdf/p963.pdf> Federal-State Reference Guide).

The State Social Security Administrator can tell you whether a Section 218 agreement is in effect for a specific group of workers. See [www.ncsssa.org](http://www.ncsssa.org) for a list of State Social Security Administrators.

### **Medicare Tax**

With few exceptions, employees (including firefighters and EMS) hired after March 31, 1986, are covered by the Medicare tax. Employees hired before that date may be exempt if they have remained in continuous employment since then.

For more information on social security and Medicare coverage rules for government employees, see IRS Publication 963 (Federal-State Reference Guide <http://www.irs.gov/pub/irs-pdf/p963.pdf>)

### **Emergency Workers**

The Internal Revenue Code provides an exception under IRC 3121(b)(6)(C) from social security and Medicare tax for a worker “serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or other similar emergency.” This exception applies only for temporary workers hired in response to an unforeseen emergency. It does not apply to firefighters who work on a recurring, routine or regular basis, even if their work involves situations that may be considered emergencies, including responding to fires.

### **Expenses and Reimbursements**

Firefighters and EMS may receive amounts that are designated as expenses for transportation, equipment, clothing, etc. In general, these are treated as taxable wages. However, if the amounts are paid under an **accountable plan**, they may be excluded from wages and no tax reporting is required. An accountable plan must:

- (1) Require workers to substantiate actual expenses,
- (2) Allow no reimbursements for unsubstantiated expenses, and
- (3) Require any excess reimbursements to be returned timely.

Ordinary and necessary expenses firefighters and EMS incur in the course of performing their jobs would be excludable from income if paid under an accountable plan. A fixed cash amount which does not require documentation of expenses is treated as ordinary wages. They are subject to income tax, social security and Medicare tax withholding.

For a detailed explanation of the accountable plan rules, see section 5 of Publication 15 (<http://www.irs.gov/pub/irs-pdf/p15t.pdf>)

### **State or Local Tax Benefits**

In some cases, volunteer firefighters and EMS receive benefits in the form of state or local tax credits or rebates. If these benefits are offered in return for services performed, their value represents income to the worker for Federal tax purposes and should be included in taxable wages.

### **For More Information**

The FSLG web site <http://www.dol.gov/compliance/laws/comp-flsa.htm> more information on all these topics. The FSLG Newsletter (<http://www.irs.gov/govt/fslg/article/0,,id=103384,00.html>) includes a directory of local FSLG Specialists throughout the country who can assist you with questions involving the tax responsibilities of government entities.

### **IRS Code Section 501©3**

Organizations such as a Fire Department or EMS Departments that meet the requirements of Internal Revenue Code section 501(a) can be exempt from federal income taxation. In addition, charitable contributions made to some section 501(a) organizations by individuals and corporations are deductible under Code section 170.

Review should be made with legal counsel and/or CPA before taking action to apply for this exemption. Information needed to getting started, applying for the exemption, required filings, compliance, and other required actions can be found on the IRS website. <http://www.irs.gov/charities/article/0,,id=169727,00.html>

### **Book Keeping Basics**

Most ESDs will need to acquire computer software for financial record keeping. Review should be made with the accountant and /or auditor that will be working with these records. Some basic generally accepted accounting principles (GAAP) is covered here. This information follows the guidelines given by the Government Accounting Standards Board (GASB). All ESDs will have a general operating fund.

An ESD can have three types of funds:

1. General Operating Fund
2. Tax Debt Service Fund
3. Possibly a Sales Tax Fund

Not all ESDs will have a need for all three types of funds.

### **General Operating Fund**

Normal receipts that a part of this fund are insurance revenue, maintenance tax, interest, and grants. Normal expenses are fire department costs, appraisal district cost, tax collection cost, telephone, consultant's fees, and print and office supplies. Generally these funds can be moved to the other funds.

### **Tax Debt Service Fund**

Normal receipts that are a part of this fund are property taxes (operating and debt portion) and interest. Normal expenses from this fund are loan payment, dispatch, insurance, radio tower fees, construction and capital costs, and transfer of maintenance tax to operating fund. Normally the funds here can not be moved to other funds.

### **Sales Tax Fund**



Some ESDs are able to collect a sales and use tax. For those that are collecting sales tax the normal receipts are sales tax revenue and interest. Normal expenses are for this account are operation costs, construction cost, and tax debt service cost. Normally the funds here can not be moved to other funds until debt and reserve amounts are met.

### **Pledged Securities**

ESDs must be aware of the amount of money that will be added to their accounts at financial institutions. Federal Insurance Deposit Corporation (FDIC) has a limit of \$100,000 on the account. The Public Funds Investment Act requires that funds be secured. Review must be made with the financial institution and accountant before this limit is exceeded. Most county accounting officials have experience that can be very helpful to ESDs with this matter. It is suggested that ESDs contact county officials for discussion and their help with security of funds.

### **Budgets and Reports**

Additional discussion is given later about budgets and reports. ESDs will be working with budgets that will show actual to budget comparisons for each of the funds discussed above. Quarterly Investment Reports should be prepared and reviewed. This will help the ESDs know if surplus funds may be available and very helpful during tax rate setting.

Budgets and reports formats will vary depending on the software and procedure used for making the budgets and reports. With a standardized format and time ESDs will become familiar and comfortable with working with these reports.

### **Effective Tax Rate**

The effective tax rate is the rate needed to collect the same tax dollars as the prior year base on the new certified value. The certified value is normally obtained from the county tax appraiser. A very good guide book is the "Truth - in - Taxation" guide provided by The Texas Comptroller of Public Accounts at: . <http://www.window.state.tx.us/government.html>

### **Summary**

The best risk management tools for ESDs are well developed policies and procedures. A good practice for ESD Boards is to occasionally canvass the ESDs operations and:

- Look for and eliminate safety hazards;
- Develop good strong policies, procedures, and employee job descriptions;
- Assure that all personnel and volunteers are properly trained to handle assigned tasks;
- Obtain an insurance policy; and
- Retain a good attorney, talk with him/her and listen to the advice.

## 5. THE ESD BUDGET

*In this chapter, as in the entire document, "Board" refers to the ESD Board of Emergency Services Commissioners. "ESD" refers to an emergency services district.*

The budget process requires a detailed review of the needs of the ESD, evaluating those needs, establishing priorities, preparing and adopting both annual and long-term budgets, having an independent audit, and of course preparing and submitting the budget to the public through regular financial and performance reports. This chapter serves as an overview of these activities.

Note that the budget officer may be the Board treasurer, Board president or another individual designated by the Board.

### **Budget Basics**

Although not all-inclusive, listed below are basic elements that are standard to ESD budgets. Ideally, each ESD's budget should show:

#### **Balance**

The budget must balance; there must be enough resources to cover all appropriations. Texas ESDs cannot operate in the red.

#### **Reasonable Revenue Estimates**

All revenue estimates must be as accurate as possible, yet somewhat conservative. A good budget has an adequate cushion in the event that, for some reason, a source does not produce as much revenue as anticipated. Contrary to popular belief, an ESD can have a contingency or reserve fund, and a fund of at least 10% of the annual budget is recommended. An ESD is not required to expend all of its funds each year – so long as such funds are incorporated into the budget.

#### **Comprehensive Expenditure Estimates**

All estimates of expenditures must include the maximum funds that could possibly be needed or be available for each account.

#### **Adequate Reserves Budgeted**

It is prudent to maintain a strong reserve fund for emergency and unanticipated situations. The minimum recommended reserve amount is 10 percent of the annual budget.

#### **Liquidation of Prior Year's Deficit**

Texas ESDs are prohibited from deficit financing.

#### **Capital Outlay Plan Established**

Capital outlays, whether a new computer or pumper truck, are vital to the continual well being of a district. It is important that ESDs and any district service delivery organization maintain a continuous new investment and reinvestment program to keep up with the

district's needs. Replacing equipment and maintaining facilities regularly will avoid the high costs of making repairs later.

### **Budget Development**

The preparation and adoption of the annual budget requires proper study and evaluation of all of the ESD's programs. Conducting such studies and evaluations of all programs funded by tax dollars demonstrates wise and prudent application of taxpayer support.

The budget process provides an opportunity to evaluate needs and plan and set the priorities for the future. The following list, though not all-inclusive may serve as a starting point for the process.

### **Program Evaluation**

Ask questions about each program, such as:

- Is the ESD providing the services that are needed by district constituents?
- Could someone else provide these services?
- Can any program or project be eliminated?
- Are there new or additional concerns that should be addressed?
- Involve the service providers and get information about current and future needs

### **Operations Evaluation**

Ask questions about ESD operations (activities related to running the district), such as:

- Is the ESD and/or any agencies supported by the ESD using the most efficient and effective procedures to perform required tasks?
- Is there any duplication of effort?
- Are there gaps left open?
- Are there ways to reduce costs?
- Can fewer staff administer any project or program?
- Would more staff enable the ESD to do a better job?
- Is all equipment in operating condition?
- Are all contracts up to date?
- Are all insurance policies up to date?
- Are the contractors complying with the terms of their contract?
- Does the ESD have adequate insurance protection?

### **Personnel Evaluation**

Ask questions about the status of personnel, such as:

- If an ESD employee, review performance evaluations
- Are employees and/or volunteers competent for the tasks assigned?
- Do employees and/or volunteers have adequate training?
- Are employees properly compensated for the jobs to which they are assigned?

### **Needs Assessment**

Ask questions about the facilities, such as:

- Are ESD facilities in need of repair or improvement?
- Is a computer system needed? Does it need to be upgraded?
- Are improvements to the water system needed?
- Are emergency services providers needs being met?

## Priority Setting

Ask questions about the ESDs existing and future priorities, such as:

- Has the board set priorities to address any needs?
- What program or project needs immediate attention?
- Can any project wait until next year?
- What can the ESD handle in the current year's budget?

## Multiple Departments

ESDs that support more than one emergency services organization may want to review and evaluate each supported department and weigh the needs of each against the needs of the entire ESD. Balancing needs between departments may require negotiation and trade-offs, such as eliminating an emergency services provider or merging two or more departments.

## The Budget as a Plan

A budget is a plan for using the ESDs resources to meet its goals and objectives. While the law requires an ESD to adopt annual budget, experience has shown that the long-term budget process enables ESD Commissioners to:

- review the district's operations and activities;
- analyze needs and wants;
- evaluate any existing and additional resources; and
- weigh the merits of a new piece of equipment against the pressures to reduce the tax rate.

The remainder of this chapter reviews tasks involved in planning, preparing and adopting a budget for an ESD. Since there are no statutory requirements, the guidelines below have been compiled from Texas county and city records.

## Budget Preparation

The key factors in budget preparation are:

- information about costs of programs, activities, or items;
- details of resources to be available;
- a budget calendar to specify when each task is to be done and who is to do it; and most important,
- a set of goals and objectives that the Board wants to accomplish during the coming year.

The goals and objectives must be tailored to fit the individual district. They need not be elaborate, but must convey to the budget officer and staff the context in which the governing body wants to operate in the next year.

While the treasurer or another officer or individual has the task of preparing the initial budget proposals, the Board is responsible for assuring that the tasks are completed. The Board must assure that the ESD has an adequate record keeping and accounting system to record the data needed to make accurate projections and intelligent decisions.

There are several important steps to the budget preparation process.

1. Designate the individual who will serve as budget officer who is to prepare the initial draft of the budget for the Board.
2. There must be a workable set of forms to guide the Board through the budget preparation process. These forms must be flexible enough to meet the needs of the various district organizations. Certainly, the forms that would be needed for a countywide program in an urban area would be far more extensive and complex than would be required for a rural ESD. At the same time, a large rural ESD might need a much more complex budgeting system and forms than would be required for a smaller rural ESD.
3. The budget must have input from every level of the administrative framework. For example, the fire fighters who use the hoses would best know their condition; the person charged with oversight of the supplies would best know the supply levels; and those responsible for maintaining equipment would better know the status of that equipment.
4. Revenue estimates must be prepared. These must be given careful considerations to not only reflect the economic condition of the community, but also the ability of the people to pay. The revenue estimates must be comprehensive, yet conservative.

### **Budget Review**

The budget officer must evaluate, verify and justify both expenditure and revenue estimates for all budget proposals received. The budget officer may trim the estimates and requests in order to give to the Board a balanced budget. Other budget officers may work with the various departments to develop priorities and let the Board use these as guides for cutting or expanding as may be required.

### **Board Action**

The budget officer is responsible for passing the completed budget proposals to the Board, news media and to interested citizens. Ordinarily this distribution takes place at a regular Board meeting. After the Board has had time to become familiar with the budget proposals, various recommendations may be discussed. Often the Board will want to talk to the various department heads and/or service providers about their specific needs and requests. However, the Board must accept responsibility for the final results.

Consideration should be given to the following basic budget concerns:

- Does the budget meet the needs of the district adequately or at least as adequately as available finances will permit? Are there some services which should be reduced or eliminated in order to provide funds for more important programs?
- Does the budget provide proper balance between services, especially between more and less essential services?
- Are the administrative controls in place to assure that adequate results will be produced and proper standards of service maintained?
- Is the proposed budget sound and honest? Do the revenue estimates appear to be realistic? Have all expenditures and foreseeable contingencies been included?
- Is the budget economical in all respects, and oriented toward obtaining the greatest value per dollar expended?
- Is the budget consistent with the ability and willingness of the citizens to support it?
- Is the budget consistent with the ESD's long-range goals?

Throughout the Board's discussions on the budget, the focus should be on standards of service, the volume of work to be performed, and the effect that each proposed change would produce upon work accomplished and services rendered. If services are to be provided by another service provider, the contract negotiations with that provider should focus on the same factors. Full consideration of the relationships between services and expenditures should bring a better mutual understanding between the Board, the district service delivery organizations and the district at large.

Upon Board approval, the budget is to be formally filed with the secretary of the board and a public hearing is called. It is imperative that the Board use the budget as a public information document and as a vehicle for eliciting citizen response to questions such as:

- What services do the citizens want?
- What quantity and quality of service do they desire?
- What will that level of service cost?
- How much revenue will be required?
- To what extent are the citizens willing and able to tax themselves for such services?
- To what extent is the level of services meeting or failing to meet the needs of the district?

After the public hearing on the budget, the Board must carefully consider suggestions expressed by the public and, as appropriate, amend the budget or adopt it as presented. The budget may be adopted immediately after the public hearing or at a subsequent meeting if more time is needed to make changes to the budget.

### **Final Action on the Budget**

The final action by the Board is the adoption of the budget by resolution and the adoption of a tax levy by formal resolution or minute order. Normally, this process takes place beginning in July of each year for final adoption before October 1, in compliance with the Truth in Taxation requirements. In the event that there are other changes in items such as service charges, etc., these changes must be adopted by resolution or other appropriate means

When the budget is adopted, the chief executive officer should prepare copies of the official budget and file one copy with the secretary of the board and see that copies are distributed to the department heads, Board members, district service delivery organizations, the commissioners court(s), news media, and interested citizens. The Board must always keep in mind that regardless of who prepared the draft budget or supplied the data, the final budget as adopted is the Board's official budget, and the responsibility for what is included or not included lies with the Board. The Board, not the various district service delivery organizations, must report to the county commissioners' court(s), which in turn must report to the public.

After the adoption of the budget, the Board should adopt a resolution establishing a tax rate to support the budget and directing the county tax collector to proceed with the levying and the collection of the taxes as required. In the event of an increase in the tax rate or in the assessed values that in effect nets a tax increase, the Board must post a notice of the increase as provided by the Tax Code. Contact the Texas Comptroller's office and get a copy the Truth in Taxation publication and follow the guidelines to the letter. The secretary should send a copy of the resolution to the county tax office.

<http://www.window.state.tx.us/government.html>

## **Budget Implementation**

The Board must assure that there are adequate controls and checks in place to assure that the funds are expended as planned. This is established by:

- The presence of a record keeping and accounting system that will accurately account for every penny from receipt to final expenditure;
- Adequate written contracts with district service delivery organizations to whom funds are to be provided, ensuring protection of the funds and quality performances of these organizations;
- Regular financial and performance reports that clearly demonstrate the use of the funds and the activities of the agencies which have received funds from the ESD;
- Annual audit performed by an independent accounting firm; and
- Safeguards and checkpoints that ensure that the funds are adequately protected and to reduce, as far as possible, the opportunity for the funds to be miss-appropriated, miss-spent or lost through any means; and
- Compliance with all procedures and requirements.

Should you have questions on the budget or the budget process, call the Office of the Comptroller, the Texas Commission on Fire Protection, the ESD's attorney, or another emergency services district.

## **Budget Calendar**

There is no statute that requires an ESD to adopt a budget, but it would be impossible to properly run a district or comply with the annual audit without one. Remember, an ESD, like any other governmental entity cannot justify an annual tax rate if it does not have a budget. It is mandatory to submit an annual financial report to the county commissioner's court. The budget preparation process is a highly beneficial activity.

The following ESD budget calendar assumes that October 1 through September 30 is the fiscal year since October is the date that taxes are ordinarily payable. It can be adjusted to whatever fiscal year the ESD adopts

### **Prior to March 15**

1. The Board reviews the prior goals and objectives and makes modifications as needed.
2. The Board evaluates programs and performances with particular emphasis on progress toward meeting the established goals and objectives.
3. The Board conveys to the budget officer the current goals and objectives, program priorities and the level of performances expected for the next fiscal year.
4. The budget officer reviews the statutes to assure that there have been no material changes in the law.
5. The budget officer prepares a budget calendar with target dates for the various steps to be accomplished during the process.
6. The budget officer prepares budget request forms to be used by each office, department, or separate entity to submit their requests for the next year.

### **Important Dates in Truth-In-Taxation**

The Property Tax Code establishes target dates for many truth-in-taxation activities. Although circumstances may force appraisal districts or taxing units to alter their timetables, this typical calendar should provide a framework for activities.

May 15	The chief appraiser sends notices of appraised value.
July 20	The appraisal review board approves the appraisal records.
July 25	The chief appraiser certifies the approved appraisal roll to each taxing unit.
August 7	A taxing unit publishes its notice of effective and rollback tax rates.
Aug.-Sept.	A taxing unit adopts its budget according to its fiscal year. After adopting the budget, the unit adopts a tax rate.
Sept. 30	A taxing unit must adopt its tax rate BEFORE this date or 60 days after the taxing unit receives the appraisal roll, whichever date is later.
October	The assessor prepares and mails tax bills.

**Truth-in-Taxation Overview** from the State Comptroller's office can be found at: <http://www.window.state.tx.us/taxinfo/proptax/tnt08/>

### **Budget and Accounting Categories and Terms**

The following are descriptions of various budget and accounting categories, line items and account numbers that may be used in the budgeting and accounting of local government funds. The descriptions, though originally designed for municipal budgets, have been modified to include most ESD and/or emergency department activities.

The categories and descriptions are merely guides from which a district may add, delete or otherwise modify to develop descriptions that meet district needs. A larger organization may use most of the categories, while a smaller organization may use only a few of the categories and may group several into one. The key is to develop adequate descriptions so that the bookkeeper, upon preparing receipts or vouchers for payment, can readily identify the proper account to be credited or charged; a manager can easily keep track of budget accounts; or an ESD Commissioner can easily see where the funds come from and where they go.

The descriptions are separated into two groups. The expenditure accounts are included in the 100 through 800 series. The second group includes revenue accounts and is identified in the 900 series. There is no magic to the numbering system than to the descriptions. Each entity is encouraged to work with its independent auditor to establish an accounting and account identification system that meets the needs of that entity.



Should the district need further assistance, the State Comptroller's office publishes a *Uniform Chart of Accounts for Texas Counties* as well as *Budgeting Handbook for Texas Counties*.

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## 6. FINANCIAL MANAGEMENT PRACTICES

*In this chapter, as in the entire document, "Board" refers to the ESD Board of Emergency Services Commissioners. "ESD" refers to emergency services district.*

### Financial Operations

Handling and safeguarding public funds requires detailed attention to the annual budget, accounting system, cash controls, purchasing protocols and internal controls.

#### Annual Budget

One of the most important tasks that a Board undertakes is the adoption of the annual budget. State statutes do not require that ESDs adopt a budget, however it has been proven that preparation and adoption of a budget is essential to good financial management. Even though most of the expenditures may be through contract to a various service delivery organizations, the ESD still should adopt a budget.

#### Accounting System

All ESDs must have an accounting system that accurately records and tracks the receipts of funds from various sources through deposits in financial institutions to payments for services rendered in the way of salaries, purchases of goods or services, reimbursement for contractual expenditures, etc. The accounting system must correspond to the budget accounts to facilitate regular reports to the Board and to the county commissioner's court, so they can compare current revenues and expenditures against the amounts budgeted.

#### Cash Controls

It is imperative that each ESD work with its auditor to institute adequate controls to safeguard revenues as well as expenditures of funds to reduce the opportunity for the misuse of funds.

Funds are to be disbursed only by check signed by the Board treasurer and countersigned by the Board president, and in no event shall an expenditure of more than \$2,000 be paid from tax money unless a sworn itemized account covering the expenditure is presented to the Board and the Board approves the expenditure.

#### Single County ESD Audit

In an ESD located wholly in one county, the county auditor shall have access to the books, records, assets and officials of the ESD at any time.

On or before June 1 of each year, an ESD located wholly in one county shall prepare and file with the county commissioner's court an audit report of the ESD's fiscal accounts and records. The audit shall be performed and prepared at the expense of the ESD. The county auditor, with the approval of the commissioner's court, shall adopt rules relating to the format of the audit and report.

The person who performs the audit and issues the report must be an independent certified public accountant or firm of certified public accountants licensed in the state, unless the commissioners' court by order requires the audit to be performed by the county auditor.

The commissioners' court, on application made to the commissioners' court by the ESD, may extend up to an additional 30 days the deadline for filing the audit report.

If the ESD fails to complete and file the audit report within the designated deadline, the commissioners' court may order the county auditor to perform the audit and issue the report.

The ESD shall pay all costs incurred by the county auditor to perform an audit and issue the report unless otherwise ordered by the commissioners' court.

### Purchasing

Since the acquisition of materials, equipment and supplies or payments for contracted services account for the bulk of all ESD expenditures, sound purchasing and material management procedures are most important to the financial integrity of the ESD, to any service delivery organizations that it supports, and to its taxpayers. The Board should go beyond state statutes to avoid any appearance of impropriety.

The ESD should adopt a written policy governing all purchasing activities. Two key areas that need attention are the conflict of interest laws (Chapter 171, Local Government Code) and the Bidding Requirement (§ 775.084, Health and Safety Code).

The Conflict of Interest laws provide that a local public official commits a Class A misdemeanor if the official knowingly participates in a vote or decision involving a business entity in which the official has a substantial interest. The act further provides that if an official has a substantial interest in a business entity that would be peculiarly affected by any official action by the governing body, the official shall file an affidavit stating the nature of the interest and shall abstain from further participation in the matter.

The Health and Safety Code, Chapter 775, 084, provides that any ESD purchase requiring the payment of more than \$50,000 be awarded on a competitive basis. It does not matter that the ESD could obtain an item at a better price using a different method; the requirement for bids still holds. The statute does provide exemptions including:

- acquisition of sole-source items of services
- ambulance services
- emergency expenditures
- contracts for emergency rescue services
- contracts for fire extinguishment and suppression
- purchase of firefighter bunker gear
- purchase of fuel
- purchase or lease of real property

This statute is very specific in the manner that the specifications must be written and the bidding handled. Some ESDs may adopt a more restrictive policy, which sets an even lower figure above which competitive bids must be sought.

The key is to adopt formal procedures:

- establish clear standards and specifications for goods and services;
- establish controls to prevent purchases of unauthorized or unbudgeted items;
- establish firm guidelines governing relationships between suppliers and service providers and the ESD and its staff; and
- use centralized purchasing.

### Internal Controls

A sound system of internal controls is very important to minimize the possibilities for errors and misuse or loss of funds or equipment. Be sure:

- all assets of the ESD are recorded on an asset register and are regularly inventoried;
- an appropriate division of duties;
- qualified personnel are assigned appropriate responsibilities; and
- sound procedures are adopted for authorizing, recording, and reporting transactions.

These same requirements apply to any contracted emergency services provider of the ESD.

For more information on financial operations, contact the Texas Department of Rural Affairs, the Comptroller of Public Accounts, the county, city, local regional council of governments and/or neighboring cities.

### **Contracts**

An ESD may contract with another ESD for emergency services and/or mutual aid services. Many ESDs do not acquire equipment, buildings, supplies, etc. nor assemble and train crews. Instead, ESDs may rely on existing volunteer service delivery organizations to provide the actual services. With that said, if an ESD is subject to annexation by a municipality, it is highly recommended that the ESD own all of the assets and debt. *See, § 775.022, et seq., Texas Health & Safety Code.*

ESDs are encouraged to recognize any existing service delivery organizations that had been providing services prior to the creation of the ESD, including fire fighting and prevention, EMS and other desired services and/or activities.

If an ESD contracts with others to perform services, the ESD should assure that it has a contractual relationship with the service provider and that the contract requires the service provider to have prepared and adopted operating policies and procedures. A key item of the contract should identify the chain of command in an emergency situation.

In the contracting process, it is imperative that ESDs, to protect itself, pass on to each contractor as much of the responsibilities and liabilities possible, other than as stated above. The contract must spell out the specific services to be provided, responsibilities to be assumed, method of reimbursement, reports to be submitted, time frames and standards for performances.

It is required that the ESD enter into formal contracts with any volunteer service delivery organizations that will be providing services for the ESD or for whom the ESD will provide service(s). Each ESD should work with their attorney to prepare mutual aid contracts with their neighbors. Such contracts assure that the ESD is working as their agent and has responded to their request, and that the ESD is covered by any immunity that they may have. While volunteer agencies may not have a large financial capability, the ESD, with its taxing ability, becomes a source with “deep pockets” and thus a greater target for lawsuits. Also, any contract should specifically address the disposition of the contracting department’s assets upon the termination of the contract or the dissolution of the service provider. These assets were purchased either directly or indirectly by the residents of the ESD, even if the service provider pre-existed the creation of the ESD, and these assets should remain in the ESD after the termination or dissolution of a service provider.

For information relating to mutual aid or intergovernmental contracts, contact the Texas Department of Rural Affairs, local communities, regional council of governments or the Office of the Attorney General.

## **Accounting, Auditing and Financial Reporting**

### **Local Assets/Resources/Funds Safeguarded**

The ESD and district service delivery organization supported by funding from the ESD must maintain inventories, fixed asset registers, cash management systems, audits, etc. to assure that public investments are protected.

### **Current Obligations Are Provided Covered**

In order to avoid deficits, the ESD must pay its bills promptly as postponing payment may jeopardize the ESD's financial stability.

### **Revenue Collected Adequately**

Be sure that everyone pays their fair share and what is due. If anyone does not pay, then someone else must make up the difference. Taxes must be paid and other charges must be collected.

### **Deficits/Surplus Identified**

The budget and financial report must be accurate and give full disclosure of the financial condition of the ESD.

## **Cash Management**

### Number of Bank Accounts Minimized

Combine as many funds as possible into as few bank accounts as possible. This will reduce the opportunity for funds to be "misplaced". This will also give more flexibility in paying bills and in investing "idle cash". All records should be maintained at a central location accessible to all Board members or others who may require them. For example, many districts or service providers have experienced dire consequences if the person who has been maintaining these records at his or her home suddenly dies or resigns. These are public records and are required to be maintained in accordance with applicable records retention laws.

### Maximize Investment Income Earned

Some ESDs have earned substantial funds from interest earned from investment of idle cash. It takes effort, but careful cash management can pay dividends. *See*, §775.043, Texas Health & Safety Code. There are many investment options available to ESDs, but they must comply with applicable law.

## **Debt Management**

### Short-Term Debt

Use of short-term debt is limited to:

- Current fiscal year cash flow, i.e., to meet current expenses in advance of tax receipts;
- Emergencies - unanticipated emergency or disaster situations; and
- Capital Outlay, i.e., to purchase a replacement for an engine that is destroyed.

*Remember*, any short-term debt must be liquidated promptly in accordance with appropriate schedules.

### Long-Term Debt

Use of Long Term Debt, i.e., general obligation or revenue bonds, certificates of obligation, warrants, purchase agreements, lease-purchase agreement, etc., can allow an ESD to maximize its revenue. Also, debt should generally be held by the ESD as discussed above in the event of municipal annexation or other events. Consider that:

- All long-term debt must comply with the Health and Safety Code, Chapter 775.
- Long-term debt level should be reasonable.
- Long-term debt should be used only for major capital improvements or equipment, such as facilities or fire trucks in which the life of the equipment or improvement is at least as long as the life of the debt. Do not use long-term debt for furniture, office equipment, etc., which have short life spans.

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## 7. MEDIA RELATIONS

*In this chapter, as in the entire document, "Board" refers to the ESD Board of Emergency Services Commissioners. "ESD" refers to an emergency services district.*

### **Working with the Media**

Many professionals regard a call from a reporter as an unwanted intrusion. Staff limitations, long work days and tight deadlines make talking to a reporter seem like a waste of time and energy. Yet every request provides a potential opportunity to tell the public about the ESD's efforts.

The exchange of information is critical to ESD operations. Information sharing includes assuring that the public receives accurate, complete and consistent information. Establishing a good working relationship with the news media can be advantageous to both the district and the media. The success of a district and its programs and services hinges on its relations with the news media.

It is important that individuals and public officials representing ESDs recognize the role of the news media.

### **Know Your Media**

Each type of news media offers its own advantage:

- Newspapers cover issues in greater detail and excel at handling complex stories or issues.
- Television offers immediacy of information, visuals of news events as they happen or soon after, and a summary of local, state, national and international news.
- Radio offers portable immediacy and "news as it happens," particularly helpful during crises or severe weather.

The media's goal is to gain and to hold the largest possible audience, and each recognizes its abilities and limitations. A neighborhood paper cannot afford to devote a lot of space to national or international events; at the same time, the metropolitan paper will have little interest in an ESD meeting at which the most exciting event is a 20-minute discussion to determine the district's letterhead.

### **About Reporters**

Frequently there is a high level of mistrust and anger in dealing with reporters. This is unfortunate, because fear and animosity obviously are barriers to good media relations. It helps if one can begin to understand reporters and the nature of their business.

In developing a story, reporters look for interesting elements which typically include conflict, violence, controversy, emotion and sensationalism. Reporters also can *create* these elements in a story by asking certain questions. They don't do it to be hostile; they do it because it's what their audience likes to read and watch. It's *your* responsibility to learn to recognize troublesome questions and know how to handle them.

The average reporter does not have any knowledge of your business, and you should not expect them to have such knowledge. Do not be surprised if reporters ask uninformed questions. News reporters are not unlike members of other professions: there are good ones,

bad ones, new ones, experienced ones. Take the time to explain things, when time is available.

With the rarest of exceptions, reporters are not trying to hurt you or the district. They are simply out to get a story, of which you are but a part. With a hundred things to think about, reporters are really not concerned about you very much one way or the other, and they can be generally unaware of the ways their stories can hurt companies and individuals.

You needn't love reporters, or even appreciate them, to do well in a crisis interview. On the other hand, anger at reporters for being the way they are is a waste of time. It is, after all, not the reporter's questions that cause trouble, but *your* answers to them.

### **Developing Positive Media Relations**

So with all of this knowledge and understanding about the news media, how does one go about establishing a positive relationship with the media and developing programs to let the public know what is going on with the ESD? There is no single magic answer that will be correct in every situation and with every media representative. However, below are a few pearls of wisdom.

1. Get acquainted with the news media. This includes the reporters as well as editors and publishers. Get them involved in local activities.
2. Invite the news media to an open house, a field day or to special training sessions. This will help them to know the conditions and situations faced by the emergency responders in their work.
3. Provide frequent information and stories to the news media. This does not mean for each commissioner to try to scoop the others. The goal here is for the ESD to select its spokesperson and have that person get the information to the news media. Each commissioner should be prepared and ready to talk to the media, but all need to have the same information. Some reporters seem to enjoy starting a little agitation by saying, "Joe said this. How do you respond?"
4. Don't be tempted with your knowledge of a subject to answer questions *that are not asked*. Just answer the question(s) that the reporter asks.
5. Be careful when communicating with the news media, but don't be paranoid.
6. Don't ever lie to the media, but keep in mind that you do not always have to give all of the information if there is a reason not to release certain facts. If at all possible, give the complete story to the media. It is very important to build trust and credibility.
7. If you don't want to be quoted, don't say it.
8. Don't talk "off the record," as there is no such thing. On the other hand, if you have developed an attitude of trust with the reporter, you may be able to give the reporter some background information that will relate to a future story. Even then don't be surprised to see the story in the news before you intended. The reporter himself/herself may not release it, but he/she may casually mention it and another person pick it up.
9. If you have news releases, be sure that all of the media receive the same information. However, if a reporter comes to you with a request for information about a project or



situation, then that topic of information is that reporter's story. This could get sticky if one reporter jumps the gun on something that was about to break anyway.

10. Make sure that the information that you give to the reporter is as accurate and complete as possible. Giving partial or slanted information can lead to bad relations and distrust of your motives as well as lack of confidence in the individual.
11. Even if the reporter deserves it, don't yield to temptation and slug him or her.
12. In the event that you feel that a reporter has not been accurate, has not been fair, or you have had some other difficulty, do not be afraid to talk to the reporter, or, if conditions warrant, talk to the reporter's boss.
13. If you must talk to a reporter, you can respond to a question with, "No comment," but be prepared to pay the consequences. "No comment" often carries a connotation that you know something, but you don't want to admit it because it may make you or your program look bad.
14. Do not hesitate to tell a reporter that you do not know anything about the subject which he/she is questioning. It is appropriate to refer the reporter to the person who does have the information or you can get the answers and call the reporter back within a reasonable time. If you do have to get the information, it is imperative to remember the reporter's deadline.
15. Do not hesitate to consult your legal counsel in any situation involving the media. This may save great legal expenses down the line. Also, never talk to a reporter about a specific call or individual, as you may be violating statutory confidences, and if you do have to talk about a specific event, provide general information only. Never allow any employee or volunteer to ever speak about in an incident or individual, unless you have specifically authorized that individual to do so.

Some have said that developing good media relations is like developing a good marriage; you have to work at it every day. You may have a difference of opinion, but when it is over, close the book, go on to the next subject, and always remember that the news media has the audience ink by the barrel, and the last word.

Applying these suggestions does not guarantee perfect media relations, but they have helped many public officials through some rocky times and rough waters that are often full of alligators.

### **Interview Tricks and Traps**

A reporter might — deliberately or not — attempt to get you to answer in a way that can be embarrassing or harmful. You need not respond within the framework the reporter sets. The classic is *forced choice*. "When did you stop beating your spouse?" The question is framed to force the answer, "Last Tuesday," or "October 14th." Set the reporter's framework aside and respond, "My spouse and I have an excellent relationship."

#### Before the Interview

Never go into an interview just to answer a reporter's questions.

Have your own agenda — a point you want to make about some of the positive things you've done, initiatives you've taken, the good things you're comfortable talking about, your efforts to provide services in your area.

Ask yourself, "Why should anyone care?" Tell *why* this is important, why this is going to change people's lives, how it's going to affect your community. Rehearse (aloud, if possible) before you go into the interview and then repeat your point during the interview.

Reporters ask tough questions. However, you need not respond to questions which touch on patient or client confidentiality, legal issues or personnel problems. If you refuse to or can't answer a question, you *must* explain why. "No comment" simply is not acceptable.

### The Tricks

#### **Phantom Authority**

Vague reference to a study or a quote by some authority should not be used. Don't attempt to respond unless the reporter can provide exact data. Even then, you are well within your rights to ask for time to review the information and frame an answer before you respond.

#### **Third Party**

A reporter's question, "If you were commissioner [or governor or the boss] ...", should be answered with "I'm not the commissioner, and I cannot speak for him."

#### **False Assumption**

False Assumption sets a premise that is incorrect. Do not repeat the error in your response, even to deny it. Simply say, "That's not true. What is correct..."

#### **Uninformed Questions**

If a reporter asks you to list your five biggest problems, or to describe the problems you've encountered in a program, decline. If you respond, count on a story about every issue you've pointed out. Go back to your message.

#### **"What if?" Questions**

Don't speculate or guess. Don't speak for others. Stick to the facts.

#### **Badgering**

A persistent reporter may ask the same question a dozen times, trying to get a certain response. Don't concede the point to get rid of it and don't become angry or defensive. The reporter is not going to tell the audience how your answer was extracted.

#### **Irrelevant Questions**

When the reporter strays from your area of expertise, don't follow. Bridge these questions to your objective.

**"A" or "B"**

The "A" or "B" dilemma: "Do you prefer X or Y?" Answer: "I think C is a good choice because..." (Don't let the reporter limit your choices.)

**Multiple or Rapid Questions**

Take issues one at a time. When confronted with several questions, pick the one you want to answer and ignore the rest. Simplify, simplify, simplify.

**On-Camera Interview Tips**

Be aware of and use some of the following nonverbal behaviors when talking to the public through the media.

**Eye Contact**

Maintain good eye contact with the reporter, not the camera, if the reporter is physically present during the interview. If the reporter asking you questions is in the studio and you have only a camera at your location, then look directly into the camera as if it were the reporter. Don't allow your eyes to dart back and forth or wander around; the audience will perceive them as "shifty" and be less inclined to believe what you're saying. Project pleasant, sincere friendliness and concentrate with engaged interest on the topic.

**Smile**

Depending on the topic, a smile builds credibility and changes the relationship with reporter and audience. If it is a crisis, however, a smile may not be appropriate.

**Posture**

If you are seated, lean slightly forward in the chair with feet flat on the floor. Avoid slumping or moving around a great deal. If you tend to rock back and forth when standing, put one foot slightly ahead of the other. Avoid sudden movements, though natural gestures are fine.

**Wardrobe**

If appropriate, wear clothes which identify your profession — lab coat, stethoscope — for instant credibility. Otherwise, clothes should be simple. Avoid extremely dark, white or very pale colors, and red clothes or ties should be avoided. Especially avoid wearing extremely dark colors and white together. Avoid loud prints and stripes and bright, flashy, dangly jewelry. Plain suits in medium tones with dark shoes are good. If you wear a tie, muted colors are suggested, and avoid bow ties.

**Glasses**

Avoid wearing glasses unless you must. They tend to reflect light and make it difficult for the viewer to see your eyes. If you have contact lenses, wear them instead of glasses. Never wear dark glasses, or glasses which are heavily tinted or light sensitive.

**Makeup**

For a relatively brief TV news interview, you don't need to worry much about makeup. Just use some powder (men too!) to dull the reflection from lights and to smooth skin tones. If possible, shave just before the interview to avoid any hint of a five o'clock shadow, which the lights and camera emphasize. Avoid makeup which calls attention to itself, such as heavy eye shadow or bright lipstick.

**Interview Location**

Don't interview in your office and especially not sitting behind your desk. This creates a barrier with the TV audience, and reporters then may have access to confidential papers in your office. Go to a conference room, the library, or outside in front of your agency's building. Try to have the interview in a location where the visuals are relevant to the topic, such as in front of tractors or a building. TV reporters often like outdoor locations because the lighting is better than fluorescent indoor lighting, and if there's a spot with your agency's logo on the wall behind you, so much the better.

*The sections, "Know Your Media," "About Reporters," "Interview Tricks and Traps," and "On Camera Interview Tips," are compiled from a 1999 training manual from the Texas Department of State Health Services, "Working with the News Media: A Guide to Getting Your Message to the Public."*

## **A. OPERATIONS-RELATED EXAMPLES**

### **A.1. Equal Employment Opportunity Policy (Example)**

It is the policy of the ESD not to discriminate in recruitment, employment, compensation, promotion and all other conditions of employment on basis of race, color, or national origin, religion, sex, age, physical or mental handicaps (in cases of mentally retarded persons who meet job requirements), marital status, changes in marital status, pregnancy or parenthood. This policy not to discriminate in employment includes, but is not limited to:

- Recruiting and hiring of applicants who possess the necessary skills, education and experience.
- Compensation of employees, and all other terms, conditions or privileges of employment.
- Promotion, transfer or demotion of employees.
- Training during employment and selection for training and apprenticeship programs.
- Use of employment agencies, which do not discriminate on the same basis.

No employee shall aid, abet, compel, coerce or conspire to discharge or cause another employee to resign because of illegal discriminatory factors.

The ESD strives to promote or hire "unemployed" persons into occupations for which they possess the necessary skill, education, experience and interest.

SAMPLE: Handicapped

The ESD must not discriminate in hiring or promoting of handicapped persons. They must attempt to make the facilities barrier-free and accessible according to federal and state statutes. ESD must schedule work to fit the needs of handicapped employees when such scheduling does not adversely affect other employees or business. The goal should be to provide a comfortable, safe, accessible and pleasant work environment for all employees.

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## **A.2. By-Laws for Volunteer Fire Department (Example)**

Always consult legal counsel as to specific by-laws. It is important to note that the draft by-laws provided below may not be adequate for your specific situation, and by-laws can be very important in obtaining the benefits of the Texas Tort Claims Act or other applicable law.

### Los Diablos Volunteer Fire Department Incorporation by Laws

#### ARTICLE 1

##### PURPOSE

Section 1. The purposes for which the Los Diablos Volunteer Fire Department is organized are to engage in the activities of operating and maintaining a volunteer fire department and emergency rescue service within or about the geographical area defined in the Articles of Incorporation. This is established solely as a non-profit, charitable, beneficial, patriotic, civic and educational association of its members.

#### ARTICLE 2

##### MEMBERSHIP

Section 1. *Qualifications for membership:* Any resident of or person employed in the Los Diablos area of good character and good physical condition who has attained the age of nineteen (19) may be eligible for membership in the department. A driver's license check will be made on all applicants.

Section 2. *Basic membership:* The procedure for entering the department as a Basic Member shall be as follows:

- a) The candidate shall submit an application and a physical release form to the Membership Committee.
- b) Within thirty (30) days of receipt of application the Membership Committee shall perform appropriate reviews and inquiries to determine whether the candidate meets the fundamental qualifications for membership. Upon approval of the Membership Committee, the candidate will be notified of his acceptance or non-acceptance and the candidate's name shall be placed on a Prospective Member List.
- c) At the regular business meeting immediately preceding the commencement of the next Basic Training Course, applications of candidates on the Prospective Member List shall be placed before the membership. The starting date for each Basic Training Course shall be set by the Board. Each candidate shall have attended at least three (3) regularly scheduled meetings from the time the application was submitted through the date of the business meeting.
- d) The candidate must be approved as a Basic Member by a majority of Active Members voting in a secret ballot at that regular business meeting mentioned in (c).
- e) Basic Members shall NOT:
  - Participate in votes by the membership

- Be issued equipment and participate in actual fire fighting activities until attending the first three (3) basic classes and upon approval of both the basic class instructor and the Chief of the department.

### Section 3. Probationary Membership

- a) Upon the successful completion of the required Basic Training Course and upon endorsement of the Basic Training Officer, the Fire Chief or his/her designated representative will review the qualifications of the Basic Member for Probationary Membership.
- b) Upon recommendation by the Fire Chief or his designated representative and approval by the Board of Directors, the Basic Member will be designated as a Probationary Member. Probationary Members shall respond to alarms and participate in actual emergencies under close supervision by the Fire Chief and Line Officers. They shall not participate in votes by the membership.

### Section 4. Active Membership

- a) At the conclusion of a minimum of three (3) months of Probationary Membership, the Chief or his/her designated representative will review the qualifications of the Probationary Member for Active Membership candidacy.
- b) Upon recommendation by the Fire Chief and nomination by a majority of the Board of Directors, Probationary Members shall be placed before the general membership at the next regularly scheduled business provided the candidate has attended a minimum of sixty five (65) percent of the regularly scheduled meetings and has met the minimum fire attendance requirements.
- c) Upon approval of two-thirds (2/3) of the Active Members voting in a secret ballot each candidate shall gain Active Membership, with all the rights and responsibilities accruing thereto.
- d) A Probationary Member shall be allowed to remain as a Probationary Member for a maximum of six (6) months. Members exceeding this shall be required to leave the department.
- e) All active members are required to complete the standard minimum training hours as approved by the State Firefighter and Fire Marshal's Association before being allowed to enter a structure fire.

Section 5. Exceptions: Exceptions to the requirements of Sections 2, 3 and 4 above may be recommended by the Membership Committee in the following cases:

- a) Former members in good standing of LDVFD who have reapplied for membership as Probationary or Active Members at the discretion of the Board provided they have shown knowledge of LDVFD's standard operating procedures.
- b) Exceptionally qualified applicants, who, because of past firefighting experience (and training) will be able to make an immediate and significant contribution to the department, and have a knowledge of the department's standard operating procedures, may be directly designated as Probationary Members on the recommendation of the Fire Chief and approval of the Board.

Section 6. Equal Opportunity. The Los Diablos Volunteer Fire Department is an Equal Opportunity organization and does not discriminate in its membership on the basis of race, color, religion, sex, national origin, veteran status, age or disability in employment or provision of services. Applicants should communicate requests for reasonable accommodations.

### ARTICLE 3

#### GOVERNING BOARD

Section 1. The business of this department shall be performed and governed by a Board of Directors (Board).

- a) The Board will consist of six (6) members serving as: President, Vice-president, Secretary, Treasurer, Assistant Treasurer, and one (1) At-large.
- b) Board members must be active members of the Department.
- c) Board members will be elected during the Annual Business Meeting. Current Line Officers, who are elected to the Board, must submit their resignation as Line Officers prior to the first meeting of the Board.
- d) The term of each Board member shall be two (2) years. In even numbered years three (3) positions will be filled and in odd numbered years, three (3) positions will be filled.
- e) All Department programs and activities of whatever nature must be approved by the Board prior to implementation.
- f) The Board shall conduct any disciplinary hearing concerning members or officers.

Section 2. A director may be removed from office on the vote of two-thirds (2/3) of the membership. Any vacancy occurring in the Board shall be filled by the affirmative vote of a majority of the remaining directors.

Section 3. The Board shall have the following powers:

- a) Select, employ and discharge in the name of the department such persons as may be required to fulfill the objectives and purposes of said organization. Supervision shall be the responsibility of officers designated by the Board.
- b) Purchase, lease or acquire by mortgage or otherwise, building, equipment, tools, vehicles, appliances, goods, supplies, and materials as shall be reasonably necessary to carry out the purposes of the Department, including the maintenance, upkeep, repair, replacement and preservation of such property. The Board is empowered to enter into such financing arrangements and contracts as may be necessary for the acquisition of capital items including the creation of a mortgage or similar security agreement, promissory note or lien for a period in excess of one (1) year, provided that such capital item was included in the budget for the then current year.
- c) Deposit all funds collected or otherwise accruing to the Department in a special bank account and/or savings and loan accounts with suitable designation indicating their source.



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- d) Establish reserves, both funded and unfunded, for the payment of any and all costs and expenses of the Department to be disbursed by the Treasurer. Should any third party agree to fund any portion of such reserve accounts, the Treasurer will collect and account for such funds and disburse same in accordance with the terms and conditions of the funding agreement.
  - e) Cause the Treasurer to maintain all financial records, books, accounts and other records in accordance with prevailing accounting standards to identify the source of all funds collected and the disbursement thereof. Such records shall be available for inspection by the membership at all reasonable times. The Board shall perform a continuing internal audit of the Treasurer's records, but no independent or external audit shall be required unless such audit shall be required by the terms and conditions of any agreement which may be entered into with third parties covering the financing of capital items.
  - f) Prepare an annual operating budget to be submitted to the Darla County Emergency Services District, constituting the Advisory Fire Commission. This budget shall set forth an itemized statement of the operating expenses, proposed capital expenditures, and anticipated receipts for the forthcoming calendar year. The budget shall constitute a major control under which the Board shall operate and there shall be no substantial variation there from. However, in cases of emergency involving manifest danger to persons or property, or immediate necessity for the presentation and safety of the property or the safety of persons, or required to avoid suspension of necessary services of the Department, expenditures may be made by the Board or their designee irrespective of the limitations which may be contained in the budget.
  - g) Be responsible for the planning and conduct of the monthly general membership business meeting.
  - h) Coordinate and approve suitable agreements concerning use of the fire station facilities and/or equipment by tenants or guest organizations.
  - i) Duties of the Directors:

**President.** The president shall preside at all meetings of the active members and the Board of Directors. He/she shall preserve order and decide all points of order that may arise, and shall enforce rigid observance of the Articles of Incorporation and the by-laws. The President shall appoint all committees and shall have authority to cosign all checks of the Corporation.

**Vice-president.** The vice-president shall assist the president in the discharge of his/her duties, and shall perform the duties of the president in the president's absence. The vice-president shall be an ex-officio member of all standing, appointed, or special committees. The vice-president shall have authority to cosign all checks of the Corporation.

**Secretary.** The secretary shall keep minutes of all meetings of the membership and of the Board of Directors. All minutes will be available to the membership. The secretary shall keep a roster of the names of all members, and shall furnish all applicants with a copy of the By-laws and the Articles of Incorporation. He/she shall also keep a record of all correspondence and a record of attendance at all regular meetings.

**Treasurer.** The treasurer shall record and monitor all financial transactions (books of record are compiled by the contracted accounting service). The treasurer shall collect all monies due the Corporation, and place all funds either in a bank or investment

institution selected by the Board. He/she shall pay all bills and claims by check, consistent with the policies and actions of the Board. He/she shall give a monthly report of the finance of the department at the monthly business meeting and issue financial statements to respective utility districts. He/she will ensure timely preparation of annual budget and audit reports under the conditions of existing contracts. The treasurer shall sign all checks of the Corporation jointly with one other member of the Board, two signatures being required.

While not necessary, contracting with a professional accounting service to keep the books might be a good idea for any volunteer department.)

**Assistant Treasurer.** The assistant treasurer shall be responsible for all duties assigned by the treasurer.

**Member at Large.** The member at large shall perform tasks assigned by the president with Board approval and assist the vice-president as coordinator and liaison between the public and the Board. Act as liaison and/or ad hoc member for the fire department with other organizations with which the Fire Department has agreements and/or contracts, and reporting to the Board. The member at large shall maintain a diary of all contract and agreements into which the Department has entered and see that all changes, updates and renewals are timely brought before the Board for consideration and action.

- Appoint at least ninety (90) days before the annual Membership Meeting a Nominating Committee of no fewer than five (5) members, of which the majority may not consist of current Board Members. The function of the Nominating Committee is to present qualified candidates to the membership for election of directors. The Nominating Committee shall, at the regular business meeting immediately prior to the Annual Meeting, present to the membership their slate for each of the elective directors. At this meeting the President shall entertain nominations from the floor, those nominee's names to be included on the printed ballot used at the Annual Meeting. The members may submit a write-in vote for any eligible person at the Annual Meeting even though not previously nominated as provided herein. The Nominating Committee shall expire at the conclusion of the election, and the individual members shall not be eligible to serve on the next Nominating Committee.
- Bonding of the Directors. The membership may require by affirmative vote of two-thirds (2/3) of the membership present at a business meeting, the bonding will, therefore, be required to be furnished to the membership at the next regularly scheduled business meeting.

## ARTICLE 4

### MEETING OF THE BOARD

Section 1. A *regular meeting* of the board shall be held at least once every month.

Section 2. *Special meetings* of the board shall be held when called by any Director after not less than three (3) days' notice to each Director. A special meeting may be called immediately upon agreement of a quorum of the directors. The transaction of any business at any special meeting of the Board, however called and notice, shall be valid as though made at a meeting duly held after regular call and notice of a quorum is present.

Section 3. *Quorum.* The majority of the Board shall constitute a quorum thereof.

Section 4. Voting. Each Director shall be entitled to .one (1) vote. At all meetings, issues shall be decided by the vote of the majority of the Directors present in person, a quorum being present.

## ARTICLE 5

### LINE OFFICERS

Section 1. The Line Officers of the Department shall consist of:

- a) Chief (which may be a paid position).
- b) Assistant Chief
- c) One (1) District Chief for each district
- d) Paid fire fighter(s)

Additionally there shall be:

- One Captain for each fifteen (15) active members.
- As many Lieutenants as deemed necessary by the Board, but not to exceed one for each seven (7) active members.

The number of active members, as determined by the secretary, to be in the Department on December 31st of each year shall be used to determine the number of Line Officers for the following year.

Section 2. The participation by members and the use of equipment during an emergency shall be under the jurisdiction of the Fire Chief, or his/her designated representative.

## ARTICLE 6

### FILLING OF LINE OFFICER POSITIONS

Section 1. Eligibility: Active members will be certified as eligible for Line Officers at the discretion of the current Board. A member of the current Board will not be eligible for Line Officer positions unless that member's Board term is due to expire at the next regular annual meeting.

At the March business meeting, the Active Members will elect members from the certified lists to serve as Line Officers for the following year, beginning April 1st. A listing of voting results in order of votes received will be posted and a copy maintained by the secretary.

Prior to April 1st, the Board will assign Line Officers grades to the elected members, as well as establish a rank structure within each officer grade.

Section 2. Line Officers may be removed from office by a two-thirds (2/3) vote of the general membership.

Section 3. Vacancies occurring in Line Officer positions will be filled immediately by the Board of Directors appointing a member from the current certified list.

Section 4. Line Officers will meet no less than quarterly.

Section 5. Line Officers will be designated to serve in various staff positions as determined by the Fire Chief. Such staff positions shall include, but not be limited to, the following areas: Training, Pre-planning, Rescue, Disaster Planning, and Fire Prevention.

## ARTICLE 7

## IMPEACHMENT OF OFFICERS AND MEMBERS

Section 1. Any Officer or member of the Department may be impeached or expelled from office or membership for the abuse of is authority or misconduct. Charge(s) must be filed in writing with the secretary at least one(1) month before any vote is taken and a copy of the charge(s) must be served upon the Officer or member at least two (2) weeks before voting takes place. Accused and accuser shall appear before the Board for a hearing. If impeachment is recommended by the Board, the question shall be submitted to the membership for a vote. A vote of two-thirds (2/3) of the members present at any regular or special meeting is required to affirm impeachment or expulsion.

## ARTICLE 8

## DUTIES OF THE MEMBERS

Section 1. Attendance Requirements

- a) Members shall attend at least sixty percent (60%) of regularly scheduled business and training meetings. Such meetings normally consist of one business meeting and three-night time training meetings per month. However, attendance at a regularly scheduled daytime training meeting may be substituted for attendance at a regularly scheduled nighttime training meeting occurring within the same month. Time spent on official business, approved by the Chief, may be substituted for attendance at any regularly scheduled meeting.
- b) Members shall, on a quarterly basis, participate in at least (twenty-five percent (25%) of the fire calls for which their group or district is paged.
- c) Members who fail to meet the requirements of this section during any three (3) month period may be removed from the Active Membership by the Board, upon recommendation by the Membership Committee. Members removed from Active Membership for failure to meet these requirements may be returned to Active Membership by submitting a new application to the Membership Committee when they are again able to participate at the required levels. Members removed from Active Membership will be required to return all LDVFD issued equipment.
- d) Members who will be temporarily unable to meet the requirements of this section as a result of vacation, business travel, illness, or other valid reasons may be excused from meeting these requirements by submitting a written notice to the secretary of the Board prior to the period during which the member will be unavailable. Requests for temporary inactive status may not be for a period of less than thirty (30) days. The member may then be placed on Inactive Status by the Board for a period not to exceed ninety (90) days. The period of Inactive Status may be extended one (1) time for an additional ninety (90) days by submission of a second written notice. Members on Inactive Status may be required to return all personal gear issued by the Department, depending upon the needs of the Department at the time.

Section 2. Members shall obey the commands of their officers while on duty. Full cooperation at the scene of the alarm is required. Duty is not complete until the apparatus and

equipment is cleaned and returned to service at the station, or until released by the Officer-in-charge.

Section 3. At no time shall a member report to meetings, drills or alarms under the influence of alcohol or drugs, nor should anyone unable to perform their duties in the proper manner attempt to perform any duty beyond their capabilities.

Section 4. Members will be expected to serve on various administrative committees as determined by the Fire Chief and/or the Board of Directors. Such administrative committees shall include, but not be limited to, the following areas: Records, Water Supply, Communications, Street Index, Station Maintenance, and Personal Gear.

## ARTICLE 9

### MEETINGS

Section 1. The regular annual meeting shall be held the first Tuesday of June of each year to elect Directors.

Section 2. The Department shall meet regularly the first Tuesday of each month to conduct the business of the Department. A Minimum of three (3) monthly training meetings shall be conducted, the schedule of which will be announced at the monthly business meeting.

## ARTICLE 10

### QUORUM FOR MEETINGS

Section 1. A quorum must be present at the business meeting before any business may be transacted. A quorum shall consist of fifty percent (50%) of the Active Membership.

## ARTICLE 11

### VOTING AT MEETINGS

Section 1. Voting shall be by counting of hands or by secret ballot. Majority vote of a quorum is required on all regular business matters unless otherwise specified herein. Roll Call votes may be directed if two thirds (2/3) of the quorum supports a motion for a roll call vote.

## ARTICLE 12

### BY-LAW AMENDMENT

Section 1. Any of the By-laws may be revised or added to at any regular, special or drill meetings. The proposed amendment(s) shall be presented to the Secretary in writing and shall be read aloud at that meeting. Proposed revised amendment(s) must be posted for at least two (2) weeks prior to the next business meeting the proposed amendment(s) shall be reread and then voted upon. A two-thirds (2/3) favorable vote of all members present is necessary for adoption.

## ARTICLE 13

### OPERATING PROCEDURES

Section 1. A set of Standard Operating Procedures will be established and reviewed quarterly by the Line Officers of the Department. Changes to these procedures will be posted in a conspicuous place at the Fire Station.

## ARTICLE 14

### MISCELLANEOUS

Section 1. All questions not covered by the Articles of Incorporation and By-laws shall be governed by Robert's Rules of Order, Revised.

#### DEPARTMENT ORGANIZATION STRUCTURE

- a) The LOS DIABLOS Volunteer Fire Department organization structure is detailed in Attachment A.
- b) The Board of Directors is constituted per By-law Article 3, Section 1.
- c) The Fire Chief reports directly to the Board of Directors.
- d) For functional matters, (e.g., administrative/budgetary) all officers report directly to the Fire Chief.
- e) For line (e.g., incident command/personnel) matters, the Assistant Chiefs report directly to the Fire Chief, and the Captains and Lieutenants report directly to their Assistant Chief.
- f) The Deputy Chief and other daytime paid fire fighters (including contractor) and other paid employees of the Department, report directly to the Fire Chief, or, in his/her absence, the ranking officer available for consultation.
- g) Volunteer fire fighters report directly to the officer to which they are assigned for functional matters and to the appropriate District Chief for line matters.

### **A.3. Agreement for Fire Protection Services (Example)**

Again, an ESD should consult with its legal counsel for specific contractual terms, and the draft contract provided below may not be adequate for current applicable law. Any contract should address the termination or dissolution of a service provider, and the assets should be maintained in the ESD if a contract is terminated or the service provider is dissolved. State and federal law may also address the disposition of assets, and these laws should be taken into account prior to entering into any agreement with a service provider.

Darla County ESD No. 1  
STATE OF TEXAS  
COUNTY OF DARLA

#### Section 1. Parties to the Contract

This contract is made by and between the Darla County Emergency Services District No. 1, (hereinafter the "ESD") and the Volunteer Fire Department (hereinafter the "Department.")

#### Section 2. Contract Period

This contract shall commence on January 1, 20XX, and unless terminated earlier, shall end on December 31, 20XX, provided, however, said contract shall continue thereafter on a year to year basis unless terminated by either party upon ninety (90) days written notice to the other party.

#### Section 3. Department Performance

Department shall, in a satisfactory manner as determined by ESD, operate a fire prevention, protection, and fighting operation as well as an emergency medical first responder program to the geographic area of the community as identified by the ESD Map attached as "Exhibit A." Department shall perform all activities in accordance with the terms of the performance statement attached hereto as "Exhibit S" and with all other terms of this contract.

#### Section 4. ESD Obligations

Measure of liability for payments to Department:

- a) In consideration of Department's satisfactory performance of this contract, ESD shall, subject to the limitations set forth in this contract, reimburse Department for the actual allowable costs incurred in performance of this contract.
- b) ESD's obligation under this Section is contingent upon the actual receipt by ESD of tax funds from Darla County tax office, which performs the service of collection of taxes for the ESD. ESD acknowledges that it has and will continue to set tax rates, which if paid by the property owners, will be sufficient to the costs properly incurred by Department under this contract in the amounts agreed to below:
  - **Contract Amount:** The contract amount shall be that amount that is annually established and budgeted by the ESD after consultation with the Department concerning its needs and with the Central Appraisal ESD concerning probable tax revenues at various tax rates.

- It is understood by all parties that ESD will not reimburse Department for costs in excess of the amount that is established and budgeted annually by ESD and appropriated to Department, but it is acknowledged that Department may have other sources of funds with which to assist in the financing its operations.
- c) ESD shall not reimburse Department for costs which have not been reported to ESD within sixty (60) days following the end of the fiscal year in which the costs were incurred or within ninety (90) days following the termination of this contract.
- d) ESD shall not reimburse Department for costs incurred before the commencement or after the termination of this contract.
- e) ESD may offset and withhold any amount owed to Department under this contract against any money owed by Department to ESD arising under this or any other contract between the parties.

### **Excess payments**

Department shall refund to ESD, within fifteen (15) days after ESD requests, any money paid to Department by ESD which ESD determines has resulted in an over-payment to Department or has not been spent strictly in accordance with the terms of this contract.

### Section 5. Method of Payment

Department may request payment by submitting to ESD in care of the ESD's treasurer at the ESD 's office, not more than one time each month, a letter or other type of request, either of which must contain the following information: the amount which is being requested; the budget account or accounts against which any and all costs have been incurred; documentation of all costs which have been incurred and for which reimbursement is being requested; and certification that the services were rendered, or goods received, and that they correspond in every particular with the contract under which they were procured and that the invoices are true and correct. All certifications must be signed by the Department's treasurer or other authorized officers. The ESD will remit payment not less than thirty (30) days after receipt of request.

### Section 6. Termination

- a) ESD or Department may terminate this contract, in whole or in part, at any time either determines that cause exists for such termination. The party requesting termination shall give written notice ninety (90) days prior to the date of termination. The notice shall state the reason for termination and the portion of the contract to be terminated.
- b) ESD may immediately suspend performance of this contract, without advance notice to Department, if ESD identifies possible instances of fraud, abuse, fiscal mismanagement, or other serious deficiencies in Department's performance.
- c) The suspension or termination of this contract by ESD shall not relieve Department of any then existing liability to ESD.

### Section 7. Changes and Amendments

Except as otherwise specifically provided, any change in the terms of this contract shall be made by an amendment in writing and signed by both parties.



### Section 8. Independent Contractor

It is understood and agreed that Department is an independent contractor. Department agrees to hold ESD harmless and indemnify it against any disallowed costs or any other claims which may be asserted by any third party occurring in connection with the services to be performed by Department under this contract.

### Section 9. Conflict of Interest/Nepotism

Department represents to ESD that neither it nor any member of its governing body presently has, or shall acquire, any interest, direct or indirect, which would conflict in any manner or degree with the proper performance of this contract. No person having such interest shall be employed by Department or shall be a member of Department's governing body.

### Section 10. Compliance with the Law

Department shall comply with all regulations applicable to volunteer fire departments and to emergency medical operations as applicable and with all federal, state and local laws and regulations applicable to this contract. In the event of a conflict between such laws and regulations and the terms of this contract, precedence shall be given to the laws and regulations.

### Section 11. Legal Authority

- a) Department represents that it possesses the practical ability and legal authority to enter into this contract, receive and manage the funds authorized by this contract, and to perform the services Department is obligated to perform hereunder.
- b) The person signing this contract on behalf of Department warrants that he/she has been duly authorized by Department to execute this contract on behalf of Department and to bind Department to all terms herein set forth.
- c) The person signing this contract on behalf of ESD warrants that he/she has been duly authorized by ESD to execute this contract on behalf of ESD and to bind ESD to all terms herein set forth.

### Section 12. Reports

Department shall submit the following reports to ESD:

- a) Within ten (10) days following the end of each monthly reporting period, the Department shall submit a report of receipts and expenditures. This report shall indicate the budget account against which each receipt is to be credited and each expenditure is to be charged. In addition to the financial activities, the monthly report shall include a narrative report including, as a minimum, the number of responses to fires, estimates of losses caused by fire, an estimate of the property loss that could have been incurred without the efforts of the Department, number of volunteers responding to each call, number of medical assist calls, number of volunteers responding to each medical assist call, number of volunteers participating in each fire training session, number of volunteers participating in other training, number of fire prevention or other inspections, number of fire prevention classes taught at schools or other locations, number of

participants in fire prevention classes, and any other significant activity.

- b) Within one-hundred-twenty (120) days after the end of the fiscal year, the Department shall provide a complete financial report showing all financial data, statements and reports required to comply with generally accepted auditing standards and an administrative report giving the total of all activities of the year. The financial report shall be prepared by an independent certified public accountant or public accountant or other qualified person as approved by the county auditor.

Section 13. Dissolution of Department

Title to all property now owned or to be acquired by Department shall remain with the Department, but in the event of dissolution of Department any equipment or property acquired with funds provided by ESD shall revert to ESD.

Section 14. Coordination of Activities

- a) At least one ESD Commissioner shall each month attend and participate, but have no vote, in the regular training sessions of Department.
- b) At least one active member of Department shall attend and participate, but have no vote, in each regular Board meeting of the ESD.

Section 15. Oral and Written Agreements

All prior oral and written agreements relating to the subject matter of this contract have been reduced to writing and are incorporated in this contract.

Section 16.

<p>DARLA COUNTY EMERGENCY SERVICES DISTRICT No. 1 AND          _____ VOLUNTEER FIRE DEPARTMENT</p> <p>The exhibits identified below are a part of this contract:</p> <p>Exhibit A: Map of area served by this volunteer Department.</p> <p>Exhibit B: Performance Statement</p> <p>Signed this day of _____, 20XX.</p> <p>Darla County Emergency Services District Number 1.</p> <p>_____</p> <p>Name and Title</p> <p>Signed this _____ day of _____, 20XX.</p> <p>_____ Volunteer Fire Department</p> <p>Name and Title</p>
---

*Example: Exhibit A*

<p>EXHIBIT A  MAP OF AREA SERVED  DARLA COUNTY EMERGENCY SERVICES DISTRICT No. 1 AND  _____ VOLUNTEER FIRE DEPARTMENT</p> <p>(Map)</p>
--

*Example: Exhibit B*

<p>EXHIBIT B  PERFORMANCE STATEMENT  DARLA COUNTY EMERGENCY SERVICES DISTRICT No. 1 AND  _____ VOLUNTEER FIRE DEPARTMENT</p>
<p>Department shall, in connection with fire fighting and emergency medical first responder programs within the Darla County Emergency Services District No.1 jurisdiction:</p>
<ol style="list-style-type: none"> <li>1. Provide equipment, personnel, supplies, materials, etc. in order to: <ol style="list-style-type: none"> <li>a) conduct inspections for fire hazards,</li> <li>b) conduct fire prevention and emergency medical training and education,</li> <li>c) respond to requests for assistance in the event of fire and/or medical emergencies.</li> </ol> </li> <li>2. Provide personnel, materials, supplies, etc. as needed to assure that within each calendar year at least ten percent (10%) of the residential and commercial structures are inspected for fire hazards.</li> <li>3. Assure fire prevention, fire fighting, and medical assistance personnel are properly trained and qualified for the levels of service required herein.</li> <li>4. Assure that adequate qualified personnel are available in order that at least six (6) persons respond to each fire call and two (2) persons respond to each medical assist call.</li> <li>5. Provide adequate fully equipped and operational fire fighting vehicles and equipment to respond to each fire call with the following response times: <ol style="list-style-type: none"> <li>a) Within one mile of (<u>Location</u>) not less than ten (10) minutes.</li> <li>b) For distances greater than one mile from (<u>Location</u>) not less that two (2) additional minutes for each one (1) mile.</li> </ol> </li> <li>6. Provide adequate personnel with training and supplies in order that at least two (2) first responders with basic first aid equipment and supplies can respond to each medical assist call with the following minimum response time: <ol style="list-style-type: none"> <li>a) Within one (1) mile of (<u>Location</u>) not less than five (5) minutes.</li> <li>b) For distances greater than one mile, not less that three (3) additional minutes for each two (2) additional miles.</li> </ol> </li> <li>7. Conduct within each calendar year not less than: <ol style="list-style-type: none"> <li>a) one (1) fire prevention workshop for the general public,</li> <li>b) one (1) fire prevention class for each school within the Department's assigned territory as out lined on the map Exhibit A,</li> <li>c) one (1) medical, first aid or safety class for the general public,</li> <li>d) twelve (12) fire prevention and/or fire fighting classes for the volunteers of the department.</li> </ol> </li> <li>8. Make arrangements for not less than two (2) persons to attend and participate in the Annual Fire School at Texas A&amp;M or similar qualified school.</li> <li>9. Prepare and submit for ESD review, a proposed budget showing all revenues and expenditures for the next fiscal year.</li> <li>10. Prepare and submit such financial, administrative and narrative reports and other information as required including but not limited to: <ol style="list-style-type: none"> <li>a) A monthly narrative report of activities, ideally the 1st of each month.</li> <li>b) A monthly financial report showing all receipts and expenditures and comparing both receipts and expenditures against the percentage of the fiscal year that has elapsed.</li> <li>c) An annual financial audit to be submitted within ninety (90) days after the end of the fiscal year.</li> </ol> </li> </ol>

#### **A.4. Mutual Aid Agreement (Example)**

Legal counsel should be consulted before entering into any mutual or automatic aid agreement, as an improperly drafted agreement may preclude reimbursement of expenses by state or federal agencies in the event of a major disaster or event.

THE STATE OF TEXAS  
COUNTY OF XXXXXX

#### **AGREEMENT FOR MUTUAL AID FOR FIRE PROTECTION**

This agreement among the Anytown Agency (hereinafter, the AFD), and the Neighbor Agency (NFD) is for the purpose of securing to each the benefits of mutual aid in fire prevention, in the protection of life and property from fire and in firefighting, rescue and medical activities. In order to receive the considerations recited above, it is agreed that:

##### **I. Term**

The term of this agreement shall be continuous until superseded by agreed upon future mutual aid agreements.

##### **II. Scope of Service**

Upon the request to the responding agency by the requesting agency or by a pre-arranged response procedure on file at the appropriate dispatch agency, firefighting, rescue and medical equipment and personnel will be dispatched to any point within the jurisdiction of the requesting agency, designated either by the requesting agency or by pre-arranged response procedures.

##### **III. Service Areas**

It is agreed between the AFD and NFD, that the AFD firefighting, rescue and medical services extend only to the area served by NFD, and likewise NFD will extend services only to the area served by the AFD.

##### **IV. Conditions**

Any dispatch of fire fighting, rescue or medical equipment and personnel pursuant to this agreement is subject to the following conditions:

1. Any request for mutual aid hereunder shall include a statement of the amount and type of equipment and the number of personnel requested, and shall specify the location to which the equipment and personnel are to be dispatched; however, the amount and type of equipment and number of personnel, if any, to be furnished shall be determined by the responding Agency. Pre-determined response protocols can supersede the above.
2. The responding agency shall report to the Incident Commander, or his/her designee of the requesting agency, at the location to which the equipment and personnel are dispatched, and shall be subject to the orders of the Incident

Commander or his/her designee. Provided however, that the Officer in Charge of the equipment and personnel of the responding agency shall be responsible for operating within the established policies and procedures of the responding agency.

3. The mutual aid rendered under the terms of this agreement shall include firefighting services, rescue services and/or Emergency Medical Services.
4. The responding agency shall be released as soon as feasible by the requesting agency when the services of the responding agency are no longer required.
5. The agency shall have a statement in their policy manual (SOG's) to indicate a standing order to all members of the agency, ordering them to take appropriate actions, consistent with the exposure to loss, until such time as dispatch is accomplished. For example: a member discovers a fire and takes immediate action and is injured. (This particular clause is a requirement for the Federal Public Safety Officers Benefit Program, and must be in written SOG's to qualify for the program.)

#### V. Level of Performance

Each agency shall provide each to the other, the following levels of service, type of certifications and documentation. These requirements are to be provided immediately upon request.

1. The following amount of personnel to be sent on particular types of apparatus is **DESIRED**, so that the apparatus can function to its maximum capacity.
  - a) Boosters, Grass trucks and Tankers/Tenders to have a minimum of two (2) personnel per apparatus.
  - b) Pumpers, Rescues and Aerials to have a minimum of three (3) personnel per apparatus. Tankers/Tenders that are operating as Pumpers, will require the personnel as defined for a Pumper.
  - c) EMS transport vehicles shall meet all Texas requirements for staffing.
2. Each agency should be recognized by the State Fire Marshal, or by their respective County Fire Marshal, if so applicable, as being the agency having jurisdiction in their specific response area.
3. The agency should be a member in good standing in their respective County and local area Firefighters Associations.
4. The agency, when requested to send medical equipment and/or personnel, shall send only personnel with current Texas Department of State Health Services medical certifications.
5. The agency must carry sufficient insurance coverage on their personnel and equipment, including coverage for damage to other equipment and personnel through error or omission.

#### VI. Compensation

A party to this Agreement shall not be reimbursed or compensated by the other party for any costs incurred pursuant to this Agreement except as provided by law, applicable regulations, or upon agreement between the parties hereto.

#### VII. Equipment and Personnel

All equipment used by the AFD and NFD in carrying out this Agreement, will be owned by each Party, under contract to, or available under authorization by an appropriate Agency. NFD personnel under this Agreement will be members/employees of NFD or others as authorized acting in the capacity as a member/employee of NFD. All personnel acting for the AFD under this Agreement will be members/employees of the AFD or others as authorized acting in the capacity as a member/employee of the AFD.

#### VIII. Liability

1. The Parties agree that each shall be responsible for its own actions and those of its members while fighting fires, providing rescue services, providing emergency medical services, traveling to or from the emergency scene, or in any manner providing services pursuant to and within the scope of this Agreement or a supplement hereto.
2. It is expressly understood and agreed by the parties that neither shall be held liable for the actions of the other party or any of the other party's members while in any manner furnishing services hereunder.

#### IX. Immunity or Defense

It is expressly understood and agreed that, by the execution of this Agreement, neither the AFD nor The NFD waives, nor shall be deemed hereby to waive any immunity or defense that would otherwise be available to it or its members/employees against claims arising in the exercise of its functions and activities.

#### X. Termination by any Party

If for any reason either party to this Agreement is unable or unwilling to carry out the terms of this Agreement, or it would become unduly burdensome for that party to continue performing this Agreement, that party shall have the option to terminate this Agreement upon thirty (30) days written notice to the other party at the headquarters or business address of the other party.

#### XI. Severability

If for any reason any provision of this Agreement is held to be invalid by a court of competent jurisdiction, such holding shall not affect, impair or invalidate the remainder of the Agreement but shall be confined in its operation to the specific provision of this Agreement held invalid, and the invalidity of any provision of this Agreement in any one or more instances shall not affect or prejudice in any way the validity of this Agreement in any other instance.

XII. Effective Date

This Agreement is effective the date of the last signature hereto. This Agreement may complement any other Mutual Aid Agreement or arrangements between the parties hereto:

FOR THE ANYTOWN AGENCY:

By \_\_\_\_\_ Witnesseth:  
Its \_\_\_\_\_ By \_\_\_\_\_  
Date \_\_\_\_\_ Date \_\_\_\_\_

FOR THE NEIGHBOR AGENCY:

By \_\_\_\_\_ Witnesseth:  
Its \_\_\_\_\_ By \_\_\_\_\_  
Date \_\_\_\_\_ Date \_\_\_\_\_

STATE OF TEXAS  
COUNTY OF XXXXXX

Notary Public in and for \_\_\_\_\_ County, Texas

**A.5. ESD Audit (Example) Suggested wording for CPA firm. Most firms should already have this language.**

TEXAS PRIDE and CO., P.C.  
Certified Public Accountants 15430 Capitol  
Blue, Texas 47000 (512) 000 0001

Texas Lucky, CPA President

January 20, 20XX

Board of Commissioners  
Darla County Emergency Services District No.1  
Blue, Texas 12345

We have audited the accompanying general purpose financial statements of Darla County Emergency Services District No.1, Darla, County, Texas as of and for the year ended December 31, 20XX, as listed in the table of contents. These financial statements are the responsibility of the ESD's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with generally accepted auditing standards. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the general purpose financial statements referred to above present fairly, in all material respects, the financial position of the Darla County Emergency Services District No.1, Blue, Texas, as of December 31, 20XX, and the results of its operations for the year then ended in conformity with generally accepted accounting principles.

/ss/

Texas Pride and Co., P.C



**A.6. Board Members, Key Personnel and Consultants (Example)**

DARLA COUNTY EMERGENCY SERVICES DISTRICT NO.1  
 BOARD MEMBERS, KEY PERSONNEL AND CONSULTANTS  
 DECEMBER 31, 20XX

ESD Mailing Address: Darla County Emergency Services District No. 1  
 10000 Ridge Drive, Suite 443  
 Blue, Texas 12345

ESD Telephone No.: (500) 834-0000

BOARD MEMBER ADDRESS	TERM OF OFFICE ELECTED & EXPIRES OR DATE HIRED	FEES & EXPENSE REIMBURSEMENTS	RESIDENT OF ESD	TITLE AT YEAR END
CARL THOMAS 10613 CREEK DRIVE BLUE, TEXAS 00040	02/XV-12/XX	\$	YES	PRESIDENT
JANE MARSHALL 10033 GLEN DRIVE BLUE, TEXAS 00040	01/XW-12/XY	\$	YES	VICE PRESIDENT
FRED GUNN 41003 SKYWAY DRIVE BLUE, TEXAS 00040	01/XW-12XY	\$	YES	SECRETARY/ TREASURER
Bill MURPHY 42440 KENTUCKY DRIVE DIME, TEXAS 00046	04/XW-12/XY	\$	YES	ASST. SECRETARY/ TREASURER
JACK TOBIN 49000 ELMONT ST. DIME, TEXAS 00046	08/XW-12/XX	\$	YES	COMMISSIONER
JAIME LOPEZ 8100 CREST AVE. BULA, TEXAS 00041	01/XW-4/XX *	\$	YES	--
TED DARLA 49040 DARLA WAY BULA, TEXAS 00041	01/XW-08/XX **	\$	YES	--

STAFF	TERM OF OFFICE ELECTED & EXPIRES OR DATE HIRED	FEES & EXPENSE REIMBURSEMENTS	RESIDENT OF ESD	TITLE AT YEAR END
TOMAS GUTIERREZ 820 GESSENER, STE 1710 BLUE, TEXAS 00040	02/XV	\$ 1,175	N/A	ATTORNEY
CARL MARTINEZ PO Box 3547 BLUE, TEXAS 00040	06/XV	\$	N/A	TAX COLLECTOR
TOMMY BROWN	05/XV	\$ 8,040	N/A	CONSULTANT

\* Resigned from Board and Director Murphy was appointed to fill unexpired term.  
 \*\* Resigned from Board and Director Tobin was appointed to fill unexpired term.

**A.7. Affidavit (Example) For Disclosure of a Financial Interest**

THE STATE OF TEXAS

COUNTY OF \_\_\_\_\_

I, \_\_\_\_\_ (Name) as a member of the \_\_\_\_\_ city council/board/commission make this affidavit and hereby on oath state the following:

I have a substantial interest in a business entity of real property that may receive a special economic effect that is distinguishable from the effect on the public by a vote or decision of the \_\_\_\_\_ county commissioners/city board/commission as those terms are defined in Chapter 171 of the Local Government Code. The business entity or real property is:

\_\_\_\_\_  
\_\_\_\_\_

Name and address of business and/or description of prosperity

Name of relative and relationship

(have/has) a substantial interest in the business entity or real property for the following reasons: (check all which are applicable)

- the interest is ownership of 10% or more of the voting stock or shares of the business entity,
- the interest is ownership of 10% or \$15,000 or more of the fair market value of the business entity,
- funds received from the business entity exceed 10% of \_\_\_\_\_ (my/his/her) income for the previous year,
- real property is involved and \_\_\_\_\_ (I/he/she) an equitable or legal ownership with a fair market value of at least \$2,500.

Upon the filing of this affidavit with the official record keeper for the county/city, I affirm that I shall abstain from any discussion, vote, or decision involving this business entity or real property and from any further participation in this matter whatsoever.

Signature of Public Official

Title

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

BEFORE ME, the undersigned authority, this day personally appeared \_\_\_\_\_ (Name of affiant) and by oath stated that the facts hereinabove stated are true and correct. Sworn to and subscribed before me on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Notary Public in and for the State of Texas

Date my Commission expires

**B. BUDGET-RELATED EXAMPLES**

**B.1. Combined Statement of Revenues, Expenditures and Changes in Fund Balance (Example)**

Darla County Emergency Services District No. 1  
 Statement of Revenues, Expenditures and Changes in Fund Balances  
 Budget and Actual General Fund  
 Year Ending December 31, 2006

	Actual	Budget	Favorable (Unfavorable) Variance
REVENUES			
PROPERTY TAXES & PENALTIES	540,065	454,837	85,228
INTEREST INCOME	22,360	16,000	6,360
MISCELLANEOUS INCOME	762		762
EXPENDITURES			
INTEREST	6,672	16,000	9,628
ACCOUNTING	8,061	10,500	2,439
APPRAISAL DISTRICT FEE	5,248	5,500	252
INSURANCE	6,279	6,000	(279)
LEGAL	5,096	4,000	(1096)
OFFICE EXPENSE	4,887	5,000	113
TAC COLLECTION FEE	--	4,500	4,500
UTILITIES	6,446	7,000	554
RENT	14,843	16,500	1,657
DISPATCHING	---	---	---
COMMUNITY RELATIONS	852	1,500	648
FIRE DEPT & FIRE DISTRICT ADMINISTRATION	57,785	62,000	4,215
HOUSEKEEPING	4,492	4,500	8
FIRE DEPT OPERATING BUDGET	314,813	281,337	(33,476)
SUPPLIES	3,239	3,000	(239)
DEBT RETIREMENT	26,250	52,500	26,250
CAPITAL EXPENDITURES	15,108	141,000	125,892
OTHER CONTINGENCIES	25,300	11,000	(14,000)
TOTAL EXPENDITURES	505,071	631,837	126,766
EXCESS REVENUES OVER (UNDER) EXPENDITURES	58,116	(161,000)	219,116
FUNDING BALANCE - BEGINNING OF YEAR	229,928	229,928	--
FUNDING BALANCE - END OF YEAR	288,044	68,928	291,116

*See the Accompanying Summary of Accounting Policies and Notes to Financial Statements*

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**B.2. Summary of Accounting Policies and Notes to Financial Statements  
(Example)**

DARLA COUNTY EMERGENCY SERVICES DISTRICT NO.1  
SUMMARY OF ACCOUNTING POLICIES AND  
NOTES TO FINANCIAL STATEMENTS  
DECEMBER 31, 2006

Note (1) Creation of ESD

Darla County Emergency Services District No. 1 was created after a public election held January 21, 2000, under the provision of Section 48-d of Article III of the Constitution of Texas. The Board of Commissioners held its first meeting on February 15, 1984. The ESD was established to provide fire protection services to residents of the ESD.

Note (2) Significant Accounting Policies

The accompanying financial statements have been prepared on the modified accrual basis of accounting applicable to governmental funds in accordance with the standards established by Statement No. 1 issued by the National Council on Governmental Accounting. Under this method, all expenditures, and all revenues currently available are accrued. The transactions of the ESD are accounted for in the following funds and account groups.

*Governmental Funds*

General Fund - To account for all financial resources for general operations.  
Account Groups

General Fixed Assets - To account for the facilities and equipment of the ESD.

General Long-Term Debt - To account for the outstanding principal balance of general long-term debt obligations.

*Memorandum Totals*

The memorandum totals represent the aggregate amount of all governmental funds and account groups included in the statements. No eliminations have been made and this total does not present consolidated financial information.

Note (3) Fire Protection Services

On January 1, 2005, the ESD entered into an agreement with the Battle Bend Volunteer Fire Department to provide fire protection and prevention services to the residents of the ESD. This continuous agreement may be terminated upon adequate written notice by either party.

Note (4) Expenditures

Operating expenses reflect the cost of goods and services shared by the ESD and the department.

Note (5) General Fixed Assets

Depreciation of general fixed assets is not recorded in the accounts of governmental funds.

Note (6) Ad Valorem Tax

During the year ended December 31, 2006, the ESD levied an ad valorem tax at the rate of \$.03 per \$100 of assessed valuation, which resulted in a tax levy of \$567,179 on the taxable valuation of \$1,890,595/570 for the 20XX tax year.

Note (7) Commitments

The ESD occupies its office space under an operating lease expiring September 1, 20XY.

Minimum future lease payments as of December 31, 2006 for the next year are as follows:

<u>Year</u>	<u>Amount</u>
2007	\$ 9,895

Note (8) Accounts Payable - D.C.V.F.D

This \$51,652 represents transactions between the ESD and the department in previous years and is subject to current negotiations.

Note (9) Transfers of Fixed Assets and Debt

The ESD transferred title to certain fixed assets to Battle Bend Volunteer Fire Department. These transfers have been accounted for as retirements on the books of the ESD.

Additionally, the debt obligation relating to assets transferred by the ESD was assumed by the fire department.

**B.3. Analysis of Changes in Cash and Temporary Investments (Example)**

DARLA COUNTY EMERGENCY SERVICES DISTRICT No. 1  
 ANALYSIS OF CHANGES IN CASH AND TEMPORARY INVESTMENTS  
 ALL GOVERNMENTAL FUND TYPES  
 YEAR ENDED DECEMBER 31, 2006

	GENERAL FUND	
SOURCES OF CASH AND TEMPORARY INVESTMENTS		
CASH RECEIPTS FROM REVENUES	\$	555,900
INTEREST COLLECTED		22,775
TOTAL		578,675
APPLICATION OF CASH AND TEMPORARY INVESTMENTS		
CASH DISBURSEMENTS		
CURRENT EXPENDITURES		15,108
CAPITAL OUTLAYS		457,316
DEBT SERVICE - PRINCIPAL		26,250
TOTAL		498,674
DECREASE IN CASH AND TEMPORARY INVESTMENTS		80,001
CASH AND TEMPORARY INVESTMENT BALANCE - BEGINNING OF YEAR		190,401
CASH AND TEMPORARY INVESTMENT BALANCE - END OF YEAR	\$	270,402

*See the accompanying Summary of Accounting Policies and Notes to Financial Statements.*

**B.4. Schedule of Temporary Investments (Example)**

CARLA COUNTY EMERGENCY SERVICES DISTRICT No. 1  
 SCHEDULE OF TEMPORARY INVESTMENTS  
 DECEMBER 31, 2006

	INTEREST RATE	MATURITY DATE	FACE AMOUNT	ACCRUED INTEREST RECEIVABLE
CERTIFICATE OF DEPOSIT				
No. 235-0081213	7.25%	02-07 -XX	\$105,108	\$ 1,107
MONEY MARKET SAVINGS				
No. 06-0605-0744	VARIES	--	158,245	
TOTAL			\$263,353	

**B.5. Analysis of Taxes Receivable (Example)**

DARLA COUNTY EMERGENCY SERVICES DISTRICT No.1  
 ANALYSIS OF TAXES RECEIVABLE  
 DECEMBER 31, 2006

TAXES RECEIVABLE, JANUARY 1, 20XX	\$487,168
20XX TAX ROLL	567,179
ADJUSTMENTS TO PRIOR YEAR TAXES	1,278
TOTAL TO BE ACCOUNTED FOR	1,055,625
TAX COLLECTIONS	556,854
TAXES RECEIVABLE, DECEMBER 31, 20XX	498,771

**B.6. Assessed Valuation Summary (Example)**

PROPERTY VALUATIONS (IN THOUSANDS)	2002	2003	2004	2005	2006
REAL PROPERTY	\$1,455,833	\$1,338,064	\$1,609,64	\$1,691,768	\$1,144,200
PERSONAL PROPERTY	444,763	356,688	8	146,192	111,878
			156,253		
TOTAL VALUATION	1,890,596	1,694,752	1765,901	1,837,9960	1,666,078
TAX RATE PER \$100					
VALUATION	.03	.03	.03	.03	.03
TAX ROLLS	\$567,179	\$508,426	\$529,770	\$551,388	\$499,823

TAX YEAR: JANUARY 1, 2006 TO DECEMBER 31, 2006

	2005	2006
PERCENT OF THE ASSESSED VALUATION TO FAIR MARKET PRICE	100%	100%
PERCENT OF TOTAL TAXES COLLECTED TO TOTAL TAXES LEVIED	28.8%	94.1%

**B.7. Analysis of Changes in Budget (Example)**

DARLA COUNTY EMERGENCY SERVICES DISTRICT No. 1  
ANALYSIS OF CHANGES IN GENERAL FIXED ASSETS  
DECEMBER 31, 2006

	BALANCE JANUARY 1, 2005	ADDITIONS	RETIREMENTS	BALANCE DECEMBER 1, 2006
TRUCKS	\$350,844	\$2,426	\$353,270	\$
COMMUNICATIONS EQUIPMENT	55,471	4,737	60,208	
FIRE FIGHTING EQUIPMENT	180,749	1,541	182,290	
TRAINING EQUIPMENT	12,670	--	12,670	
FURNITURE	25,833	4,033	29,866	
LEASEHOLD IMPROVEMENTS	21,211	--	--	21,211
COMMUNICATIONS EQUIPMENT	22,455	2,371	--	24,027
TOTALS	\$669,223	\$15,108	\$638,304	\$46,127

Certain fixed assets were transferred to Battle Bend Volunteer Fire Department and are reflected as retirements on the ESD's books.

**B.8. Schedule of Notes Payable (Example)**

DARLA COUNTY EMERGENCY SERVICES DISTRICT No.1  
SCHEDULE OF NOTES PAYABLE  
DECEMBER 31, 2006

GENERAL LONG-TERM DEBT ACCOUNT GROUP	INTEREST RATE	MATURITY DATE	PAYABLE AT END OF YEAR	ACCRUED INTEREST OF NOTES
NORTHWOOD NATIONAL BANK *				
TOTAL - ALL FUNDS				

\* Debt obligation was transferred to and assumed by Battle Bend Volunteer Fire Department in conjunction with the transfer of certain fixed assets which were collateral for the debt.

## B.9. ESD Budget (Example)

### Darla County ESD No. 1 Budget for FY 2006

The Darla County Emergency Services District No.1 was created by the voters of the City of Los Diablos, the community of El Centro, and the western half of Darla County by an overwhelming majority of the voters at an election in 2000.

All of the ESD Commissioners appointed by the Darla county commissioners' court are serious about our role and are committed to continuing the high level of fire prevention and fire fighting services provided by the Los Diablos and El Centro Volunteer Fire Departments.

The ESD has executed a contract which provides that Los Diablos Volunteer Fire Department will provide fire prevention and fire fighting services for the northeastern 2/3rds of the ESD, and the El Centro Volunteer Department will provide protection to the southwestern 1/3rd of the ESD. In addition, the volunteer departments will provide first responder medical services. The first responders are volunteers who are scattered throughout the ESD and, in most cases, can reach a victim and begin providing aid considerably earlier than the county's EMS team, which may have to travel a long distance from the central station. The first responder program is completely volunteer with no cost other than per call stipend and medical supplies used in emergency situations.

Please note that the Darla County ESD No. 1 Budget is very simple. The ESD has no assets and does not anticipate accumulating any. The Central Appraisal District and the County Tax Office have projected that the 3¢ tax rate will provide \$57,100 in revenue. This is based on an assessed value of \$211,477,480 and a 90% collection rate.

The ESD will retain \$6,100 to cover liability insurance for the ESD and the directors, charges for the collection of the taxes, and legal costs. The remaining \$51,000 will be prorated among the two volunteer departments. The attached budget looks somewhat spare, but this is largely because there are no prior years for comparison and the ESD budget will deal only with the tax collections. The two departments will handle all of their own miscellaneous receipts and expenditures.

The ESD has very tight contracts with the volunteer departments. Some of the key features provide:

1. Each department's budget will be reviewed by the ESD thirty (30) days prior to the beginning of the fiscal year. Questionable items will be discussed in the contract negotiations.
2. The title to all property now owned or to be acquired by either department will remain with that department, but in the event of dissolution of either department, all titles to property of the dissolving department shall automatically transfer to the ESD or to an approved successor agency.
3. Each department will present monthly activity and financial reports to the ESD. These reports will clearly depict the activities of the previous month, plans for the next month and the current financial condition of the department.
4. Within 90 days after the end of the fiscal year, each department shall provide a complete financial report showing all receipts and expenditures and a narrative report of activities of the previous year. The report shall include exhibits, charts, and tables showing the number of responses to fires, estimates of losses, estimates of property that would have been lost without the efforts of the department, number of volunteers responding to each call, number of medical assist calls, number of volunteers responding to medical assist calls, number of volunteers participating in each training session, number of volunteers participating in other training, number of fire prevention or other inspections, number of fire prevention classes taught at schools or other locations, and number of participants in fire prevention classes.
5. Each department shall provide for an independent audit of all of its accounts with a copy of the audit being forwarded to the ESD within 90 days after the end of the fiscal year. The ESD is asking each of the departments to establish an October 1 September 30 fiscal year. This will permit the ESD to combine their reports with an overall report from the ESD for submission to the county commissioners' court by the February 1 deadline.
6. Each month, at least one ESD will attend and participate in one of the regular training sessions of each department.
7. At least one active member of each department will attend and participate in each regular meeting of the ESD.
8. In the event of non-compliance with the contract by a department, ESD may give notice of such deficiencies and direct action to correct same. The notice will give a time frame for corrective action.
9. In the event of non-compliance with contractual requirements by the ESD, the affected department may give notice of such deficiencies and request action to correct same. The notice will include a time frame for corrective action.

The ESD appreciates the support of the county judge and the commissioners' court of Darla County, and we appreciate the efforts of the Los Diablos and El Centro Volunteer Fire Departments and the many loyal volunteers that make it happen.

Board of ESD Commissioners  
Darla County  
Emergency Services District No. 1



**B.10. ESD Budget Summary (Example)**

Darla County ESD No. 1  
 Fiscal Year Ending 20XX  
 Budget Summary

DARLA COUNTY EMERGENCY SERVICES DISTRICT No. 1 FISCAL YEAR ENDING 20XX BUDGET SUMMARY				
	20XX ACTUAL	20XX ESTIMATED	20XX PROPOSED	20XX APPROVED
BEGINNING BALANCE	-0-	-0-	-0-	-0 -
REVENUES				
TAXES	-0-	-0-	\$57,100	
CHARGES FOR SERVICES	-0-	-0-	-0-	
FINES AND FORFEITS	-0-	-0-	-0-	
CONTRIBUTIONS FROM AGENCIES	-0-	-0-	-0-	
CONTRIBUTIONS FROM INDIVIDUALS	-0-	-0-	-0-	
MISCELLANEOUS	-0-	-0-	-0-	
TOTAL REVENUES	-0-	-0-	57,100	
<b>TOTAL AVAILABLE</b>	<b>-0-</b>	<b>-0-</b>	<b>57,100</b>	
EXPENDITURES				
PERSONAL SERVICES	-0-	-0-	-0-	
SUPPLIES	-0-	-0-	-0-	
SERVICE CHARGES	-0-	-0-	6,100	
CONTRACTS WITH VOLUNTEER DEPTS.	-0-	-0-	51,000	
CAPITAL OUTLAY	-0-	-0-	-0-	
TOTAL EXPENDITURES	-0-	-0-	57,000	
UNAPPROPRIATED CONTINGENCY				
<b>ENDING BALANCE</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	

## **B.11. Volunteer Fire Department Annual Budget (Example)**

### **Introduction**

The Los Diablos Volunteer Fire Department provides fire protection and fire prevention activities for the Los Diablos community and most of the eastern half of Darla County. The department is 100% volunteer, with the only compensation to volunteers being a flat stipend of \$5.00 to cover costs of transportation, cleaning uniforms, etc. for each response to a fire or to a first responder run and \$3.00 for each training session attended. There are 46 active volunteers and an average of 20 attendees for each of the 26 training exercises each year.

Based on previous experience, we project that the department will average two (2) first responder runs each week and just under one (1) fire call each week. While the projected cost may seem high, it is actually low when it is compared to the \$140,740,740 taxable value that is being protected within the area allocated to the Los Diablos Volunteer Fire Department. Please note that Los Diablos has current mutual aid and/or service contracts with the City of Los Diablos, the County of Darla, the El Centro Fire Department, and all other adjacent jurisdictions.

This budget is the first to benefit from the 3-cent tax being levied by the Darla County Emergency Services District No. 1 which includes the City of Los Diablos as well as most of the western half of Darla County. Discussions with the commissioners of the ESD and with the Central Appraisal District suggest that we can anticipate \$34,000, which is based on a 90% collection rate. We believe that collections will improve in subsequent years.

With the revenues from taxes, we will not have to ask the city, the county nor the schools for contributions. We are quite proud of the truck on which we completed payments last year, but are thankful that we do not need to continue to pressure our school board members, city council, nor county commissioners. One of the major benefits is the elimination of the standby charge for fire protection. This was really a burden on our volunteers to try to collect, both the advance standby charges and then even worse was sending a bill for fire fighting charges to a family who has just suffered a major fire loss, but had not paid the standby fee. Eliminating this charge completes the commitment that we made to the voters when we asked for the creation of the tax district.

This budget proposal includes only a modest increase over prior years discounting the expenditures for the new truck. Please note that the budget does include a minimum of capital expenditures for air packs and bunker suits. We are proud of our department and its accomplishments. We will appreciate the ESD Commissioner's approval of this budget request.

**B.12. Budget Summary for a Volunteer Fire Department (Example)**

LOS DIABLOS VOLUNTEER FIRE DEPARTMENT FISCAL YEAR ENDING 20XX BUDGET SUMMARY				
	20XX ACTUAL	20XX ESTIMAT ED	20XX PROPOS ED	20XX APPRO VED
BEGINNING BALANCE	\$14,568	\$13,124	\$4,891	0
REVENUES				
TAXES	0	0	0	
CHARGES FOR SERVICES	13,440	8,500	3,300	
FINES AND FORFEITS	0	0	0	
CONTRACTS WITH AGENCIES	30,000	14,400	34,000	
CONTRIBUTIONS FROM INDIVIDUALS	13,931	9,325	9,000	
MISCELLANEOUS	2,600	0	0	
TOTAL REVENUES	59,971	32,225	46,300	
TOTAL AVAILABLE	74,539	45,349	51,191	
EXPENDITURES				
PERSONAL SERVICES	5,900	6,450	7,600	
SUPPLIES	5,333	6,130	6,700	
SERVICES AND CHARGES	18,032	19,678	20,600	
CAPITAL OUTLAY	32,150	7,200	6,000	
TOTAL	61,415	39,458	40,900	
UNAPPROPRIATED CONTINGENCY	0	1,000	5,000	
ENDING BALANCE	13,124	4,891	5,291	

I certify that this budget was approved by the Los Diablos Volunteer Fire Department on (date) and the Volunteer Fire Department requests the Darla County Emergency Services District No. 1 approve the budget as submitted on this (date).

\_\_\_\_\_  
 President  
 Los Diablos Volunteer Fire Department

**B.13. Revenue Accounts for a Volunteer Fire Department (Example)**

LOS DIABLOS VOLUNTEER FIRE DEPARTMENT FISCAL YEAR ENDING 20XX REVENUE ACCOUNTS				
	20XX LAST YR. ACTUAL	20XX THIS YR. ESTIMATED	20XX NEXT YR. PROPOSED	20XX NEXT YR. APPROVED
<b>TAXES</b>				
910 CURRENT AD VALOREM TAXES	-0-	-0-	-0-	
912 DELINQUENT TAXES & PENALTY	-0-	-0-	-0-	
915 OTHER TAXES	-0-	-0-	-0-	
TOTAL TAXES	-0-	-0-	-0-	
<b>CHARGES FOR SERVICES</b>				
920 FIRE FIGHTING CHARGES	8,640	5,000	-0-	
922 EMS SERVICE	-0-	-0-	-0-	
924 INSPECTION SERVICES	2,250	1,600	1,500	
926 BUILDING RENTAL	1,700	1,200	1,200	
928 EQUIPMENT RENTAL	525	500	400	
929 OTHER	325	200	200	
TOTAL CHARGES	13,440	8,500	3,300	
<b>930 FINES AND FORFEITS</b>				
	-0-	-0-	-0-	
<b>CONTRACTS WITH AGENCIES</b>				
940 CITY OF Los DIABLOS	8,000	8,000	-0-	
942 COUNTY OF DARLA	18,000	2,400	-0-	
944 Los DIABLOS SCHOOLS	4,000	4,000	-0-	
946 DARLA COUNTY RFPD	-0-	-0-	34,000	
948 OTHER CONTRACTS	-0-	-0-	-0-	
TOTAL AGENCY	30,000	14,400	34,000	
<b>CONTRIBUTIONS FROM INDIVIDUALS</b>				
960 BAKE SALES	2,750	1,860	1,000	
962 BARBECUE	1,875	965	1,500	
964 BINGO	8,456	6,000	6,000	
968 OTHER	850	500	500	
TOTAL CONTRIBUTIONS	13,931	9,325	9,000	
<b>980 MISCELLANEOUS</b>				
	2,600	-0-	-0-	
TOTAL REVENUES	59,971	32,225	46,300	

**B.14. Summary by Category of Expenditure for a Volunteer Fire Department (Example)**

LOS DIABLOS VOLUNTEER FIRE DEPARTMENT FISCAL YEAR ENDING 20XX SUMMARY BY CATEGORY OF EXPENDITURE				
	20XX LAST YR. ACTUAL	20XX THIS YR. ESTIMATED	20XX NEXT YR. PROPOSED	20XX NEXT YR. APPROVED
PERSONNEL SERVICES	5,900	6,450	7,600	
SUPPLIES	5,333	6,130	6,700	
SERVICES	18,032	19,678	20,600	
CAPITAL OUTLAY	32,150	7,200	6,000	
TOTAL DEPARTMENT	61,415	39,458	40,900	

**B.15. Budget Request for a Volunteer Fire Department (Example)**

LOS DIABLOS VOLUNTEER FIRE DEPARTMENT FISCAL YEAR ENDING 20XX BUDGET REQUEST				
	20XX LAST YR. ACTUAL	20XX THIS YR. ESTIMATED	20XX NEXT YR. PROPOSED	20XX NEXT YR. APPROVED
100 - 200 PERSONNEL SERVICES				
100 SALARIES AND WAGES				
110 FULL TIME EMPLOYEES				
120 PART TIME EMPLOYEES				
130 OVERTIME				
TOTAL DIRECT SALARIES				
200 FRINGE BENEFITS				
210 SOCIAL SECURITY				
220 RETIREMENT	750	750	1,000	
230 GROUP INSURANCE				
240 WORKERS COMPENSATION	1,200	1,500	1,800	
250 CLOTHING ALLOWANCE				
260 TRANSPORTATION ALLOWANCE				
270 EMERGENCY RESPONSE SERVICE	3,950	4,200	4,800	
290 UNEMPLOYMENT COMPENSATION				
TOTAL FRINGE BENEFITS	5,900	6,450	7,600	
TOTAL PERSONNEL SERVICES	5,900	6,450	7,600	
300 SUPPLIES AND MATERIALS				
310 OFFICE SUPPLIES	27	40	50	
320 JANITORIAL SUPPLIES				
330 MINOR TOOLS	96	35	50	
340 MECHANICAL SUPPLIES	868	950	1,000	
350 MOTOR VEHICLE FUEL	1,984	2,100	2,500	
355 OIL AND LUBRICANTS	780	750	800	
360 CHEMICAL SUPPLIES	640	950	1,000	
365 FIRE SUPPRESSANT SUPPLIES				
370 BOTANICAL SUPPLIES				
375 FERTILIZERS				
380 FOOD AND ICE				
385 EDUCATIONAL SUPPLIES	478	525	500	
390 CLOTHING	460	780	800	
395 OTHER				
TOTAL SUPPLIES AND MATERIALS	5,333	6,130	6,700	
400 - 500 SERVICES AND CHARGES				
410 BUILDING MAINTENANCE	28	480	200	
420 MOTOR VEHICLE MAINTENANCE	2,240	2,600	2,500	
430 OFFICE EQUIPMENT MAINT.				
435 OTHER EQUIPMENT MAINT.	430	480	500	
440 STREET MAINTENANCE				
445 STREET SIGN MAINTENANCE				

447 TRAFFIC SIGNAL MAINTENANCE				
450 UTILITY LINE MAINTENANCE				
454 METER AND TAP MAINTENANCE				
460 ELECTRIC SERVICE	594	560	600	
462 WATER SERVICE				
463 SEWER SERVICE				
464 REFUSE COLLECTION				
466 NATURAL GAS SERVICE				
468 TELEPHONE SERVICE	388	388	400	
470 RENTAL OF EQUIPMENT				
472 RENTAL OF LAND				
474 RENTAL OF BUILDINGS				
480 GENERAL LIABILITY INSURANCE	1,800	2,000	2,300	
482 BUILDING INSURANCE	400	400	400	
484 VEHICLE INSURANCE	6,200	6,600	7,000	
510 TRAVEL	1,120	1,060	1,200	
520 TRAINING AND EDUCATION	1,400	1,300	1,500	
530 DUES AND MEMBERSHIPS	1,600	1,700	1,800	
540 SUBSCRIPTIONS	190	220	200	
550 RADIO AND TELEPHONE EQUIPMENT MAINTENANCE	1,670	1,890	2,000	
560 FIRE AND DAMAGE CLEANUP				
570 LEGAL SERVICES				
580 TAX COLLECTION				
590 OTHER				
TOTAL SERVICES AND CHARGES	18,032	19,678	20,600	
800 CAPITAL OUTLAY				
810 LAND				
815 IMPROVEMENTS TO LAND	25,680			
820 BUILDINGS		7,200		
825 IMPROVEMENTS TO BUILDING	6,470		6,000	
830 MACHINERY AND EQUIPMENT 850 OTHER				
TOTAL DEPARTMENTAL REQUEST	61,415	39,458	40,900	

**B.16. Personnel Schedule for a Volunteer Fire Department (Example)**

LOS DIABLOS VOLUNTEER FIRE DEPARTMENT FISCAL YEAR ENDING 20XX BUDGET REQUEST Personnel Schedule				
POSITION TITLE	EMPLOYEE'S NAME	PRESENT SALARY	PROPOSED SALARY	APPROVED SALARY
FULL TIME EMPLOYEES				
TOTAL FULL TIME EMPLOYEES				
PART TIME EMPLOYEES				
TOTAL PART TIME EMPLOYEES				
OVERTIME				
TOTAL DIRECT SALARIES				

**B.17. Capital Outlay Request Form for a Volunteer Fire Department (Example)**

LOS DIABLOS VOLUNTEER FIRE DEPARTMENT  
 FISCAL YEAR ENDING 20XX  
 BUDGET REQUEST  
 CAPITAL OUTLAY REQUEST FORM

1. Describe the vehicle or piece of equipment proposed to be purchased during the Fiscal Year. Please use a separate sheet for each purchase.  
*The capital outlays proposed for this year are 4 bunker suits and 3 air packs.*

2. Explain why this equipment or vehicle is necessary and the benefit that the fire department will derive from purchasing this item.  
*The items requested are to replace two air packs that have deteriorated from years of use and to add one additional to bring us up to eight air packs. We also plan to continue replacing four bunker suits each year to keep this vital equipment in operating condition.*

3. If this is a new acquisition rather than a replacement for an existing item please enter the following information:

a) Cost of fuel and maintenance for the fiscal year:	\$ _____
b) Cost of additional employees to operate equipment:	\$ _____
c) Cost of insurance and any other requirements:	\$ _____
Total Additional Costs:	\$ _____

4. Will the acquisition of this equipment:

a) Permit reduction of personnel resulting in savings?	Yes No
b) Result in savings in other areas?	Yes No
Total Savings resulting from acquisition:	\$ _____

5. Please enter the following:

a) Estimated Purchase:	\$	6,500	Net Cost:	\$	6,000
b) Less Trade-in (if any):	\$	500	Extra Cost:	\$	0
c) Net purchase cost:	\$	6,000	Total Cost:	\$	6,000

(Enter Net Purchases cost only on the Capital Outlay (800) Page.)

6. Add any additional justification deemed necessary.

7. Approximate date of purchase? 90 days after approval of budget

8. Estimated useful life or this item? 5 years

**B.18. Expense and Revenue Account Terms (Example)**

EXPENSE and REVENUE ACCOUNT TERMS	
100 - 200 PERSONNEL SERVICES	To include personnel costs such as salaries, wages, fringe benefits, allowances, and similar costs associated with full and part time employees as well as volunteers if paid for services.
110 FULL TIME EMPLOYEES	To include that portion of salaries of full time employees dedicated to this account.
120 PART TIME EMPLOYEES	To include salaries of all employees who regularly work less than 40 hours per week and 52 weeks of the year.
130 OVERTIME	To include salary cost over and above the regular monthly or weekly salary. Will include Fair Labor Standards Act time as well as other overtime.
210 SOCIAL SECURITY	To include the agency's share of the Social Security Tax.
220 RETIREMENT	To include the agency's share of contributions to the Firemen's Relief and Retirement Fund, the Texas Municipal Retirement Fund or other retirement or benefit fund.
230 GROUP INSURANCE	To cover the agency's share of group hospitalization insurance for all covered employees.
240 WORKMEN'S COMPENSATION	To cover each full time, part time employee, or volunteer. The rates are set annually by the state office.
250 CLOTHING ALLOWANCE	To include the cost of any allowances made to individuals in order that they may purchase their own clothing.
260 TRANSPORTATION ALLOWANCE	To include the monthly allowance that may be made to any employee for routine transportation costs, in lieu of providing an agency owned vehicle.
270 EMERGENCY RESPONSE SERVICE	To include any allowance or stipend made to volunteers such as reimbursement for expenses incurred in attending meetings or responding to fire or other emergencies.
290 UNEMPLOYMENT COMPENSATION	To cover the state assessed charges for all full and part-time employees.
300 SUPPLIES AND MATERIALS	To include all non-capital materials, supplies, and other products necessary for the functioning of the agency. A number of line items are indicated. In the event there are recurring purchases of items that do not fit the listed categories, consult with the financial office to have the proper line item numbers assigned.
310 OFFICE SUPPLIES	To include supplies necessary for use in the operation of an office, such as pens, pencils, stationery, postage, printed forms, etc.
320 JANITORIAL SUPPLIES	To include supplies necessary for cleaning offices and/or buildings such as brooms, mops, soaps, cleaning supplies, etc.
330 MINOR TOOLS	To include hand tools and instruments which are subject to rapid depreciation, loss or theft such as shovels axes, wrenches, ropes, etc.
340 MECHANICAL SUPPLIES	To include bolts, nuts, filters, small parts, etc. which are necessary for maintenance of motor vehicles, generators, etc.
345 BUILDING SUPPLIES	To include lumber, nails, etc. to be used in building repair.
350 MOTOR VEHICLE FUEL	To include gasoline, diesel fuel, butane for motor vehicles and will include fuel for stationary engines.
355 OIL AND LUBRICANTS	To include all types of oils and lubricants for use in various motor vehicles and other engines.
360 CHEMICAL SUPPLIES	To include chemical supplies such as additives, agents, or other suppressants which are mixed with water for fire suppression, as well as insecticides or chemicals.
365 FIRE SUPPRESSANT SUPPLIES	To include any costs for water, carbon dioxide or other major agents used for fire suppression.



EXPENSE and REVENUE ACCOUNT TERMS	
370 BOTANICAL SUPPLIES	To include grasses, plants and decorative materials used in connection with yard as well as interior beautification.
375 FERTILIZERS	To include all types of fertilizers or products to enhance plant growth.
380 FOOD OR ICE	To include products for human or animal consumption such as ice, drinks, sandwiches, recharging air packs etc. Meals while on trips should be charged to 51 O-Travel.
385 EDUCATIONAL MATERIALS	To include materials acquired for in-house training as well as posters, films, pictures, newspaper ads, and materials for public education.
390 CLOTHING	To include all uniforms, caps, boots, jackets, gloves, and protective clothing such as worn in fighting fires, etc.
395 OTHER	All other items not indicated.
400 - 500 SERVICES AND CHARGES	To include the cost of labor, contracts, rentals, and services provided to the agency, 2nd will include the cost of parts if included in the billing of services performed by others. Supplies or materials purchased separately will be charged under 300 Supplies and Materials. In the event that there are recurring purchases of services that do not fit the listed categories, consult with the financial office to have additional categories added.
410 BUILDING MAINTENANCE	To include costs of maintaining building such as janitorial contracts, plumbing services, repairs done by others, etc.
420 MOTOR VEHICLE MAINTENANCE	To include the costs of labor on motor vehicles and motorized equipment as well as services that are performed by others.
430 OFFICE EQUIPMENT MAINTENANCE	To include the cost of services and service contracts for repair of office machines.
435 OTHER EQUIPMENT MAINTENANCE	To include the cost of service or maintenance on equipment such as air packs, jaws of life, etc.
460 ELECTRIC SERVICE	To include the cost of electricity.
462 WATER SERVICE	To include the cost of routine water service to any facilities, but should not include the cost, if any, paid for water used for fire suppression.
463 SEWER SERVICE	To include the cost of sewer services if the sewer is provided by a central system or for maintenance of a septic or other on-site disposal systems.
464 REFUSE COLLECTIONS	To include the cost of refuse collection services, but will not include any cost associated with cleaning or removal of debris after a fire loss.
466 NATURAL GAS SERVICE	To include the cost of natural gas or bottled gas for heating, cooking, etc., but will not include natural or bottled gas for motor vehicles, etc.
468 TELEPHONE SERVICE	To include all telephone service such as local service, long distance, leased lines for signal controls, etc.
470 RENTAL OF EQUIPMENT	To include the cost of rentals of equipment, vehicles, tools, etc.
472 RENTAL OF LAND	To include the cost of renting or leasing land, whether on short term or long term.
474 RENTAL OF BUILDING	To include the cost of renting building such as temporary storage or meeting space, long term lease of buildings, etc.
480 GENERAL LIABILITY INSURANCE	To include the cost of general liability insurance for protection against injury on the premises, injuries to others through the course of performance of duties, etc. This will include the umbrella coverage on auto liabilities.
482 BUILDING INSURANCE	To include the cost of insuring buildings against loss caused by fire, hail, windstorm, flooding, etc.
484 AUTO INSURANCE	To include collision, comprehensive, liability and other insurance on all motor vehicles.
510 TRAVEL	To include costs for travel expenses out of the city for conferences,

EXPENSE and REVENUE ACCOUNT TERMS	
	training, workshops, investigations, etc.
520 TRAINING AND EDUCATION	To include the costs of registration, tuition, and similar expenses associated with training employees, but will not include posters, books and other materials and supplies for public education.
530 DUES AND MEMBERSHIPS	To include the costs of dues and memberships to organizations such as the State Firemen's and Fire Marshal's Association, etc.
540 SUBSCRIPTIONS	To include the cost of subscriptions to magazines, periodicals, newspapers, or similar material received on a regular basis.
550 RADIO AND/OR TELEPHONE EQUIPMENT MAINTENANCE	To include the cost of maintenance of radios, telephones, pagers, or similar communication equipment.
560 FIRE OR OTHER DAMAGE CLEANUP	To include the costs, if any, for cleaning fire or otherwise damaged premises. This could be labor or contractual services, materials used to disperse or dilute chemical spills, hauling of debris, etc.
570 LEGAL SERVICES	To include the costs of attorney's fees for all purposes.
580 TAX COLLECTION	To cover the costs of the agency's share of tax appraisals as well as costs for tax collections.
590 OTHER SERVICES	To include any other non-recurring service or maintenance expenses.
800 CAPITAL OUTLAY	Capital outlay accounts will be used for purchase of motor vehicles, machinery, equipment, land, buildings, major improvements to land or buildings, utility line installations, and similar major items that have life expectancy of greater than one year, or costs exceeding \$1,000.
810 LAND	To include the cost of land and or rights-of-way, etc.
815 IMPROVEMENTS TO LAND	To include the cost to improving land such as installation of utility lines, paving, sidewalks, driveways, etc.
820 BUILDINGS	To include the cost of purchase or construction of buildings, etc.
825 IMPROVEMENTS TO BUILDINGS	To include the cost of major additions to buildings such as adding insulation, building a new bay, etc.
830 MACHINERY AND EQUIPMENT	To include the cost to fire trucks, automobiles, air compressors, jaws-of-life, air packs, fire hose, typewriters, computers, etc.
850 OTHER	To include the cost of any other capital items that do not fit into the above categories.
<b>900 Revenue Accounts</b>	To include all revenues and income from whatever source.
910 Ad Valorem Taxes	To include all revenue from ad Valorem or property taxes on both real and personal properties within the taxing jurisdiction. Calculations to determine the expected revenue totals should delete from current collections that percentage of taxes that are anticipated to be delinquent during the course of the year.
910 Taxes	To include all receipts or revenues from taxes of any kind.
912 Delinquent Taxes and Penalties	To include all taxes not paid within the statutory prescribed time. The account should also include any penalties, interests, etc.
915 Other Taxes	To include any other taxes that may be payable such as sales taxes, franchise taxes, etc
<b>920 CHARGES FOR SERVICES</b>	
920 Fire Fighting Services	To include any charges or fees assessed to individuals or properties to cover costs of being prepared to fight fires or for the actual fighting of fires.
922 EMS Charges	To include receipts for responding to non-fire emergencies such as Emergency Medical Services, first responder assistance, etc.
924 Inspection Services	To include receipts, if any, for inspection of premises to identify fire hazards or other purposes.

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EXPENSE and REVENUE ACCOUNT TERMS	
926 Building Rentals	To include any receipts from rentals of buildings, grounds, etc.
928 Equipment Rentals	To include any receipts from rental of equipment such as pumps for removal of water, smoke evacuators, generators, etc.
929 Other	To include receipts from any other charges for services rendered.
930 FINES & FORFEITS	
930 Fines & Forfeits	To include any receipts from fines levied for violations or forfeits made by individuals or companies.
940 CONTRACTS AND CONTRIBUTIONS	
940 Contractual Payments from Cities	To include grants, payments for contractual services, or other payments made by a city or cities.
942 Contractual Payments from Counties	To include grants payments for contractual services, or other payments made by the county or other counties.
944 Contractual Payments from Schools	To include grants, payments for contractual services, or other payments made by schools or school districts.
946 Contractual Payments from ESD Districts	To include grants payments for contractual services, or other payments made to department by ESD districts.
948 Other Agency Payments or Contributions	To include grants or other voluntary contributions made by other public or private agencies.
960 Bake Sales	To include net receipts from bake sales, garage sales, etc.
960 FUND RAISERS	
962 Barbeque	To include net receipts from the annual barbeque fund raising event.
964 Bingo	To include the net receipts from the agency-sponsored bingo games.
968 Other Individual Contributions	To include any other grants and voluntary contributions from individuals or families.
980 MISCELLANEOUS	To include any other income, revenue or receipts that do not fit in the identified categories.

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## C. HEALTH AND SAFETY CODE CHAPTER 775 Q&A

**Note:** The number listed following the answer is the Chapter 775 subchapter number for reference.

### C.1. General Provisions

Q: For what purposes may ESDs be organized in the State of Texas?

A: An emergency services district may provide emergency medical services, emergency ambulance services, rural fire prevention and control services, or other emergency services authorized by the Legislature. Texas Constitution, Article III, Section 48-e

### C.2. Creation of ESD

#### Petition Contents

Q: How is an ESD created?

A: a) If in one county, present to the county judge a petition signed by at least one hundred (100) registered voters who own taxable real property within the proposed ESD; or if there are less than 100 such voters, a majority must sign;  
 b) If located in more than one county, present to the county judge of each county a petition signed by no less than one hundred (100) registered voters that own taxable real property that is located in the county in which the judge presides and in the proposed ESD; or if there are less than 100 such voters, a majority must sign. § 775.011

Q: What is the name of the proposed ESD?

A: a) Located within one county, the name by the petition must be "\_\_\_\_\_ County Emergency Services District No. \_\_\_\_\_," with the name of the county and the proper consecutive number inserted; or,  
 b) Located in more than one county, the name by petition must be "\_\_\_\_\_ \_\_\_\_\_ Emergency Services District No. \_\_\_\_\_." § 775.011

Q: What must this petition show in order for the judge to act?

A: a) That the ESD is to be created and operated pursuant to Article III, Section 48-e of the Texas Constitution;  
 b) The name of the proposed ESD;  
 c) The ESD's boundaries as designated by metes and bounds or other sufficient legal description (a statement that the boundaries of the district are co-extensive with the boundaries of another political subdivision, as those boundaries exist on a particular date, is a sufficient legal description);  
 d) The signer's residence address, printed name, date of signing, and the signer's date of birth or voter registration number for each petitioner (and the information required by Chapter 277, Texas Election Code; and  
 e) The name of each municipality whose consent must be obtained under Section 775.014  
 f) An agreement that at least two petitioners will pay not more than \$150 for the costs incident to formation of the ESD, such as the costs of publishing notices and election costs. § 775.013

## Municipal Territory

Q: If an ESD is to be created that contains territory within the municipality's limits or extraterritorial jurisdiction, does the governing body need to give its consent? If so, how is this given?

A: Yes. A written request must be presented to that governing body after the petition is filed. The statute is unclear as to who should obtain the consent, e.g., the county or the proponents of the petition, but generally the proponents of the petition obtain this consent and provide it to the county judge. The territory may not be included unless the governing body approves the request. § 775.014

Q: If the governing body does not approve the request for inclusion, what can the voters do?

A: a) a majority of voters and the owners of 50% of the property in the municipality's limits or extraterritorial jurisdiction that would have been included in the ESD may petition the governing body to make the emergency services available. This petition must be submitted to the governing body not later than the 90<sup>th</sup> day after the date on which the municipality received the written request to be included in the ESD district. § 775.014(b)

b) The refusal or failure of the governing body to act on the petition within six months constitutes consent to be included in the ESD. § 775.014(c)

Q: What if an industrial district of a city is included in the proposed ESD?

A: To be included in the ESD, consent must be given in the same manner as described for obtaining consent to include a territory within a municipality or extraterritorial jurisdiction of a municipality. § 775.014(d)

## Petition Filing and Hearing Notice

Q: Who establishes the date, time and place for the hearing to consider the petition?

A: The Commissioners' Court. § 775.015(b)

Q: Who should issue official notice of the hearing?

A: The county clerk and sheriff. § 775.015(c)

Q: What should the notice state?

A: The notices must state:

- a) that the creation of the ESD is proposed;
- b) that the ESD is to be created and operated under Article III, Sec. 48-e of the Texas Constitution;
- c) the name of the proposed ESD
- d) the ESD's boundaries and functions;
- e) the place, day and hour of the hearing; and
- f) that each person who has an interest may attend and present opinion for or against the ESD's creation. § 775.015(c)

Q: Where should the hearing notice be posted and who should be in charge of posting it?

A: The sheriff is in charge of posting these notices at least 21 days prior to the hearing at the courthouse door and the ESD has it published in the newspaper of general circulation. § 775.015(e)

**Hearing**

Q: At this hearing, what powers does the commissioners' court have to decide the issues at hand?

A: The commissioners' court has exclusive jurisdiction to determine each issue and may issue incidental orders, or may adjourn the hearing as necessary. § 775.016(c)

Q: Who can testify at the hearing?

A: Any person or their attorney may offer testimony to support or oppose the creation of the ESD. § 775.016(b)

**Petition Approval**

Q: Who approves or denies the petition?

A: The commissioners' court (normally with the assistance of the voter registrar or county clerk) determines if the petition has a minimum of 100 signatures of qualified voters. § 775.017b

Q: After the hearing, what action should the Commissioners' court take?

A: The court makes a finding either for or against the petition. If the court finds the creation of the district is feasible and meets the other requirements of Chapter 775, the court shall grant the petition, fix the boundaries of the proposed district and may impose other conditions as specified in §775.017 (a) Texas Health & Safety Code. If the court decides against the petition, then it will deny the petition. § 775.017(a)

Q: In petition consideration, what is the effect of municipal participation?

A: If the area encompasses a municipality or its extraterritorial jurisdiction, the commissioners' court must determine whether the findings would be the same if any municipality or its extraterritorial jurisdiction was to be excluded from the ESD. This finding shall be made for each municipality. § 775.017(b),

**Election**

Q: What should the commissioners' court do immediately after granting the petition?

A: It shall order an election to confirm the ESD's creation and authorize the levy of a tax. § 775.018

Q: What is the maximum ad valorem tax allowable?

A: For newly created ESDs, a maximum rate of 10 cents per \$100 of taxable value. Article III Section 48-e, Texas Constitution for RFPDs converted to ESDs by the Texas Legislature, the maximum rate is either 3 cents or 5 cents per \$100 valuation, depending on the location of the ESD. For ESDs that were co-terminus with a RFPD, generally a maximum rate of 2 cents per \$100 valuation. To confirm an ESD's current maximum rate, please consult your creation or conversion documents or the ESD's attorney.

Q: When, after the petition is approved, should this election take place? What if more than one county is involved?

A: After the commissioners' court of every county involved has approved the petition, the election shall be held on the first available authorized uniform election date prescribed by the Texas Election Code. § 775.018(e). Uniform election dates are currently held on the second Saturday in May or first Tuesday after the first Monday in November. §41.001, Texas Election Code.

Q: How should notice of this election be provided?

A: The commissioner's court will have the responsibility for providing all notices of the creation election including the publication of required notices pursuant to the Texas Election Code.

Q: May an ESD be created if the proposed ESD contains territory within a municipality's limits or extraterritorial jurisdiction?

A: Yes, if the municipality consents to the inclusion of its territorial or extraterritorial jurisdiction in the ESD and a majority of the voters residing in that territory vote to confirm the ESD. § 775.019(b).

Q: If voters who reside within the municipality or extraterritorial jurisdiction reject the proposal, may an ESD be created in the remainder of the proposed ESD?

A: Yes, but the area rejecting the ESD shall not be included. Its exclusion shall not affect the remainder of the proposed ESD if the commissioners' court findings under Section 775.017 were favorable. § 775.017(b)

Q: If the election passes, what must be done to confirm the ESD?

A: The commissioners' court(s) shall enter the appropriate orders as required by § 775.019, Texas Health & Safety Code.

Q: If the election fails, when may another election be held?

A: If a majority votes against creation of that specific ESD, the commissioners' court may not order another election for that ESD before the first anniversary of the date of the official canvass of the most recent election. § 775.019(d). While the statute is not clear on this point, it appears that this language does not preclude a vote on an ESD that contains some of the territory in the previously rejected ESD, so long as the territory of the new ESD is not the same as the one rejected by the voters. Questions in relation to this section should be directed to appropriate legal counsel.

Q: What is the effect of the territory of two or more ESDs overlapping?

A: Generally, none. ESDs can be created over exiting ESDS, so long as the later-created ESD does not provide services that duplicate the services provided by the earlier-created ESD. In other words, one ESD can be created to provide only EMS ambulance services and another created to provide fire and rescue services. If two ESDs overlap and provide the same services, the commissioners' court of the county in which the most recently created ESD is located shall by order exclude the overlapping territory from the most recently created ESD. § 775.0205

Q: What is to be used as the official date of creation of the ESD?

A: The date on which the approving election was held, and if the election creating two districts was held on the same day, then the most recently created district is the district for which the hearing regarding approval of the petition for creation of the district was most recently held. § 775.0205(c)

### **C.3. Organization, Powers and Duties**

#### **ESD Powers**

Q: What powers does an ESD have?

A: As a political subdivision of the state, an ESD may:

- (1) acquire, purchase, hold, lease, manage, occupy, and sell real and personal property or an interest in property;
- (2) enter into and perform necessary contracts;
- (3) appoint and employ necessary officers, agents, and employees;
- (4) sue and be sued;
- (5) impose and collect taxes as prescribed by this chapter;
- (6) accept and receive donations;
- (7) lease, own, maintain, operate, and provide emergency services vehicles and other necessary or proper apparatus, instrumentalities, equipment, and machinery to provide emergency services;
- (8) construct, lease, own, and maintain real property, improvements, and fixtures necessary to house, repair, and maintain emergency services vehicles and equipment;
- (9) contract with other entities, including other districts or municipalities, to make emergency services facilities and emergency services available to the ESD;
- (10) contract with other entities, including other districts or municipalities, for reciprocal operation of services and facilities if the contracting parties find that reciprocal operation would be mutually beneficial and not detrimental to the ESD;
- (11) borrow money;
  - adopt a sales and use tax:
    - a. adopt and enforce a fire code;
    - b. create the office of a fire marshal;
    - c. set rules and regulations regarding the investigation of the cause or origin of fires;
    - d. bill for services and;
- (17) perform other acts necessary to carry out the intent of this chapter. § 775.031, § 775.036, § 775.040, § 775.100, *et seq.*,

Q: May an ESD enter into contract with another district, municipality, or another entity?

A: Yes. The ESD may contract for fire-fighting facilities, fire extinguishment services, or emergency rescue and ambulance services; or for reciprocal operation of services and facilities. § 775.031(a) (9)

Q: If less than the full range of functions are requested in the petition and approved by the voters, when does an ESD specify the functions approved?

A: An ESD may be created to provide limited services specified in the petition at the time of the ESD's creation, for example, EMS ambulance services only. The services to be provided or excluded should be clearly identified in the petition, but such exclusion is generally not recommended unless the proposed ESD will overlap a pre-existing ESD. In addition, there are other "emergency services authorized by the Legislature" contained in Chapter 775, e.g., a fire marshal or the adoption and enforcement of a fire code, that do not have to be provided by an ESD, regardless of the designation of services set forth in the petition. § 775.013, §775.031(d), § 775.0205, § 775.036

Q: Are there exceptions to the ad valorem tax and ESD powers?

A: A business entity is not subject to the ad valorem tax and ESD's powers if it:

- provides its own fire prevention and fire control and owns or operates fire fighting equipment, apparatus, or fire fighting systems equivalent to or better than standards developed by the National Fire Protection Association and has received the appropriate approval from the Texas Industrial Emergency Services Board of the State Firemen's and Fire Marshals' Association of Texas;



- provides and operates its own equipped industrial ambulance with a licensed driver and provides industrial victim care by an emergency care attendant in compliance with Chapter 773, Texas Health & Safety Code; and
- provides ordinary emergency services for the business entity, such as hazardous materials response, rescue, disaster planning, or security services, as defined by 29 C.F.R. § 1910.120 and the Texas Industrial Emergency Services Board of the State Firemen's and Fire Marshals' Association of Texas, and provides the equipment, training, and facilities necessary to safely handle emergency incidents and to protect the business entity and its community neighbors. §775.032(a)

### Board of ESD Commissioners

Q: What is the length of term for an ESD commissioner?

A: An ESD commissioner serves a staggered, two-year term, **unless you are in Harris County or a district that covers more than one county, then the commissioner serves a four year term.** §775.034(b).

Q: After an ESD wholly located in one county is created, how is the issue of who serves on the board decided?

A: The commissioners' court shall appoint five emergency commissioners to serve until January 1 of the next year. On that date, the commissioners' court will appoint three of the current emergency commissioners to serve for two years and two to serve for one year. Thereafter, the court will appoint successors as terms expire or the office if vacated. §775.033.

Q: Who is to fill vacancies on the board of single-county ESDs?

A: The commissioners' court. §775.033(e)

Q: Are the number of emergency commissioners and term of office for the board located in more than one county different than a single-county ESD?

A: No, either way, there are five commissioners. §775.034(a),

Q: After an ESD located in more than one county is created, how is the issue of board members decided?

A: The county judges of each county mutually call an election on the next uniform election date to hold an election for this purpose. § 775.035(b)

Q: Who is eligible to serve as an ESD Commissioner?

A: For appointed commissioners, anyone who is 18 years of age, a resident of the state, a registered voter within the ESD or owner of land subject to taxation in the ESD. County commissioners will also consider relevant factors in determining the individuals to appoint as ESD commissioners, including whether the individuals have knowledge that relates to fire prevention or emergency medical services and that is relevant to the common policies and practices of the board. §775.035, Texas Health & Safety Code. For elected commissioners, anyone who is 18 years of age and a resident of the ESD, and as with other elected officials, there is no requirement as to relevant knowledge. Other disqualification of ESD Commissioners to be elected are listed in § 775.0355.

Q: How does one get his or her name on the ballot to be an elected commissioner?

A: Give sworn notice to the county clerk of each county in the ESD stating name, age, address, and intention to run. The county clerk shall have the candidate's name placed on the ballot. § 775,0345(e)

Q: Who certifies the winners of the election?

A: An election judge mutually appointed by the county clerks of each county. § 775.0345(f)

Q: Who pays for the cost of the commissioners' elections?

A: The ESD pays for the costs of the commissioners' elections. § 775.0345(g)

Q: Are the terms of elected commissioners staggered?

A: **Yes. Initially, two members who receive the fewest votes serve a two-year term. The other commissioners serve four-year terms. § 775.035(g)**

Q: How often are elections held and when?

A: The general election shall be held bi-annually on an authorized uniform election date as provided by the Election Code. § 775.035(h)

### **ESD Board Powers and Duties**

Q: What powers and duties does an ESD Board have?

A: The board shall:

- hold regular monthly meetings and others as needed;
- keep minutes and records;
- file reports required by the state fire marshal, commissioner of health, and other authorized persons;
- file a written report with the commissioners' court regarding ESD's administration and financial condition;
- administer the ESD; and,
- administer the operations of the ESD and its powers provided for by Chapter 775.031

Q: Can the board make inspections and promote educational programs?

A: Yes. The board may adopt and enforce a fire code, employ or commission a person who holds a permanent peace officer license to perform inspections for fire hazards, and promote educational programs to help achieve the purposes of this chapter. § 775.036

Q: What officers are needed on the board?

A: A president, vice-president, secretary, treasurer, and assistant treasurer. The secretary and treasurer may be the same person. § 775.037(a)

Q: In which county should the treasurer file bond in multi-county districts?

A: The treasurer shall file with the county clerk of the largest of the county with the largest population. § 775.037(b)

Q: Are board members paid?

A: No. However, commissioners may receive compensation of not more than \$3,000 per year, and may also be reimbursed for reasonable and necessary expenses incurred not to exceed \$3000 per year or receive a per diem of \$50 for each day the commissioner actually spends performing the duties of a commissioner. A commissioner who receives per diem compensation cannot be reimbursed for reasonable and necessary expenses. § 775.038

Q: Does conflict of interest apply to emergency commissioners?

A: Yes, under both the Texas Health & Safety Code and other applicable statutes and judicial decisions. § 775.037(b)

**C.4. Change in Boundaries or Dissolution of ESD****Expansion of ESD territory**

Q: Can an ESD expand its territorial limits?

A: Yes. § 775.051

Q: How many signatures are needed for a petition requesting inclusion of a defined territory that is not included in an ESD?

A: Fifty (50) registered voters who own taxable real property or a majority of those voters, whichever is less. § 775.051(a)

Q: With whom should the petition be filed?

A: The secretary of the Board. § 775.051(a)

Q: Should there be a hearing on this issue? If so, when?

A: Yes. The board shall order a time for a public hearing, and the hearing may not be held earlier than the 31<sup>st</sup> day after the date on which the Board orders a public hearing on the petition requesting annexation into the ESD. § 775.051(b)

Q: By whom and how should notices be posted?

A: The secretary shall issue notice of the time and place of the hearing, and the notice must contain the time and place for the hearing and describe the territory proposed to be annexed. The secretary shall post copies of the notice in three public places in the ESD and one copy in the territory to be annexed. These should be posted at least 15 days before the hearing. The notice shall be published one time at least 16 days before the day of the hearing in a newspaper of general circulation in the county. § 775.051

Q: Does the Board have to accept all of the territory requesting to be annexed?

A: No, it may approve only the territory that it finds is necessary and desirable. § 775.051(e)

Q: Is an election needed to approve any annexation?

A: Yes; approval by a majority of voters in the ESD as well as the territory requesting annexation. § 775.051(f)

Q: How shall the ballots be printed?

A: To provide for voting for or against:

- a) "Adding (description of territory to be added) to the \_\_\_\_\_ Emergency Services District No. \_\_\_\_;" and, if applicable,
- b) (description of territory) assuming its proportionate share of the outstanding debts and taxes of the \_\_\_\_\_ Emergency Services District No. \_\_\_\_, if it is added to the district." § 775.051(g)

Q: Who is to conduct the election and certify the results?

A: The ESD conducts the election and certifies the results in compliance with Chapter 775 and the Texas Election Code. § 775.051(h)

## Removal of Territory

Q: How does a municipality's governing body remove territory from an ESD?

A: Generally, a municipality may not remove territory from an ESD once it has consented to the inclusion of its territorial or extraterritorial jurisdiction, but a municipality that is not included in the ESD may remove territory from the ESD by annexation of the territory into the municipality and agreeing to provide emergency services and notifying the secretary of the board in writing. § 775.022

Q: What happens to an ESD's territory annexed by a municipality?

A: If a municipality that is not in the district annexes territory in the ESD, the municipality shall notify the secretary of the board in writing that the annexed territory is to be excluded from the district and compensate the district for a pro rata share of the districts indebtedness, among other requirements. A municipality may annex territory in the ESD and not remove it from the ESD under some circumstances, in which case the residents of the area included in both the ESD and the municipality are subject to taxation by both entities. § 775.022

## Dissolving a District

Q: Can an ESD be dissolved after its creation?

A: Yes by filing a petition with the Board requesting dissolution of the ESD. § 775.052

Q: How many people must sign a petition calling for a vote dissolve an ESD?

A: At least 10% registered voters in the ESD must sign the petition. § 775.052(a)

Q: Is a hearing for dissolution required?

A: Yes. If the petition is in proper form and valid, the board must set the place, date, and time for a public hearing on the petition. § 775.052(b)

Q: What must notices about the hearing include?

A: The notice must include:

- a) name of the ESD
- b) the description of the ESD's boundaries;
- c) the proposal that the ESD be dissolved; and
- d) the place, date, and time of the hearing on the petition. § 775.053(c)

Q: For what time period and by when must these notices be published?

A: The notices must be published in a newspaper of general circulation in the district once a week for two consecutive weeks starting at least 21 days before the hearing. § 775.052(d)

Q: What is the board's role in the hearing for dissolution?

A: The board shall consider the petition and each issue relating to the proposed dissolution. Any interested person may appear before the board to state their support or opposition to the proposed dissolution. The board shall grant or deny the petition. § 775.053

Q: Can the decision of the Board be appealed?

A: Not in a Chapter 775 ESD, but in a Chapter 776 ESD, a person or an owner of real or personal property may appeal the board's decision in district court in a county in which the ESD is located. § 775.053, Texas Health & Safety Code; § 776.055, Texas Health & Safety Code.

Q: Is an election needed to confirm the dissolution?

A: Yes. §775.054

Q: Is there a notice of election requirement?

A: Notice of the election shall be given in the same manner as the notice of the petition hearing. § 775.054(b)

Q: When should this election be held?

A: The election shall be held on the first authorized uniform election date that allows sufficient time to comply with the requirements of the law. § 775.054(c)

Q: Where should the results be reported?

A: In addition to the ESD retaining the election results, a copy of the tabulation of results shall be filed with the county clerk of each county in which the ESD is located. § 775.054(e)

Q: After an ESD is dissolved, may another ESD be created in the same territory?

A: An election to create a new ESD within the boundaries of the old ESD may not be held before the first anniversary of the date of dissolution. § 775.054(f)

Q: If an ESD is not dissolved, when may another election for dissolution be held?

A: The board may not order another election for dissolution before the first anniversary of the date of the canvass of the election. § 775.054(g)

Q: After dissolution, how long may the Board continue to control the property, debts, and assets of the ESD?

A: Until all assets have been disposed of and all ESD debts have been satisfied. § 775.055(a)

Q: Can the Board dispose of the ESD's assets?

A: Yes, for due compensation, unless the debts are transferred to another governmental entity or agency and the transfer will benefit the ESD's citizens. § 775.055(b)

Q: May the Board continue to tax after dissolution?

A: After dissolution orders are issued, the Board shall determine the amount of debt owed and impose a tax that is in proportion of the debt to property value. § 775.055(c)

Q: Can the Board enforce the payment of taxes?

A: Yes. The ESD may institute a suit to enforce payment of taxes and to foreclose liens to secure the payment of taxes due to the ESD. § 775.055(e)

Q: If money is left after all debts and obligations of the ESD are paid, what is done with it?

A: It is returned to the taxpayer on a pro rata basis and may be, at the taxpayer's request, credited to county taxes. § 775.055(f)

Q: After all of this is done, is there anything else to be done by the board?

A: Yes. The board shall file a written report with the commissioners' court of each county summarizing their actions during dissolution. § 775.055(g)

Q: What does the commissioners' court do after this report is filed?

A: Within ten days of receiving the report and determining that the requirements have been fulfilled, the commissioners' court of each county enters an order dissolving the ESD and discharges the emergency commissioner's bond. § 775.055(g); § 775.055(h)

## **C.5. Finance and Bonds**

### **Limitation of Indebtedness**

Q: Can an ESD go into debt?

A: A ESD may not contract for indebtedness in any year that is in excess of funds then on hand or that may be paid from current revenues except as provided by Sections 775.051, 775.072, 775.076, 775.077, 775.078, and Section 775.085. § 775.071

### **Depositories**

Q: Who designates the bank(s) to serve as depository (ies) for the ESD?

A: The Board. § 75.072(a)

Q: What should be done if funds deposited in a bank exceed the maximum amount insured by the FDIC?

A: Funds must be secured in the manner provided by law for the security of county bonds. § 775.072(c)

### **Method of Payment**

Q: Who signs the checks disbursed by the ESD?

A: The treasurer (or assistant treasurer) and countersigned by the president (or vice president). § 775.073(a)

Q: Are there any requirements for payment of ESD funds?

A: Yes. The board may not pay a statement of more than \$2,000 unless a sworn account is presented to the board and the board approves the expenditures. § 775.073(b)

Q: Is the board allowed to borrow money to purchase property or equipment?

A: Yes, the ESD has many financing options, including lease-purchase, the issuance of bonded indebtedness, and loans for real property or emergency services equipment. § 775.031; § 775.085

Q: What can be used as collateral for a loan?

A: The board may pledge tax revenues or funds on hand and not otherwise pledged for other debt of the ESD or the real property acquired or improved or equipment acquired with the borrowed money. § 775.085

Q: What is the maximum time allowed for maturity of various loans obtained by the ESD under § 775.085?

A: The loan cannot be for more than 10 years for equipment and 20 years for property. § 775.085(c)

### **Competitive Bids**

Q: How much money may an ESD spend on an item or service without opening competitive bids?

A: Bids are necessary for expenditures of more than \$50,000 for one item or service or more than one similar type of item or service in a fiscal year. § 775.084(a)

Q: How many vendors must be notified of the bidding procedures and who should do it?

A: The board is required to give written notice to at least 3 suppliers, vendors or providers of the intent to purchase or by advertising for bids. § 775.084(b)

Q: What should the board do if less than the minimum number of vendors responds to their advertisement?

A: The board is required to give written notice to at least three suppliers, vendors or providers of the intent to purchase. § 775.084(b)

Q: When the board advertises for bids, how must this be done?

A: The advertisement or notice for competitive bidding must:

- a) describe the service to be performed or the item to be purchased or leased;
- b) state the location at which the bidding documents, plans, specifications; or other data may be examined; and
- c) state the time and place for submitting bids and the time and place that bids will be opened. § 775.084(c)

Q: Where and by whom can bids be opened?

A: Bids may be opened only by the board at a public meeting or by an ESD officer or employee at an ESD office. § 775.084(d)

Q: Is it mandatory for the board to accept one of the bids?

A: No, the board may reject any and all bids. § 775.084(e)

Q: May the board award a contract to a bidder who is not the lowest bidder?

A: Yes, if the lowest bidder is given notice of the proposed award and an opportunity to appear before the board or its designated representative and present evidence concerning the bidders' responsibility. § 775.084(f)

Q: To whom does the competitive bid requirement apply?

A: any party or entity that will be expending district tax revenues for the purchase of services, vehicles, equipment, or goods. This has been interpreted to mean not only the ESD, but any contracting emergency services provider who intends to pay for the purchase with district tax revenues. § 775.084(h)

Q: Are there circumstances where this section does not apply?

A: Yes: this section does not apply to:

- (1) the purchase or lease of real property;
  - (2) an item or service that the board determines can be obtained from only one source;
  - (3) a contract for fire extinguishment and suppression services, emergency rescue services, or ambulance services;
  - (4) an emergency expenditure;
  - (5) the purchase of vehicle fuel;
  - (6) the purchase of firefighter bunker gear;
  - (7) the purchase of insurance coverage; or
  - (8) repairs funded by a payment made under an insurance claim
- § 775.084(i), Texas Health & Safety Code.

## **Ad Valorem Tax**

Q: How can the ad valorem tax be used?

A: For ESD support and purposes authorized by Chapter 775 or Chapter 776. § 775.074(a), Texas Health & Safety Code; § 776.075

Q: What is the tax rate for bonds or notes payable wholly or in part from taxes?

A: The board shall set a tax rate sufficient to pay principal and interest as they come due, and a separate accounting in the “interest and sinking” fund is required. In no event can the tax rate exceed the 10 cents, unlike, for example independent school districts. § 775.074

Q: What should the board consider when establishing the ad valorem tax rate?

A: The board shall consider the money available to pay the principal of and interest on bonds or notes issued and to create an authorized reserved fund, the programs and needs of the citizens and the service providers, long-term plans and goals, and reserve funds, among other items. §775.074(d)

Q: To whom does the board certify the ad valorem tax rate?

A: The county tax assessor-collector in each county, and, by statute, the county tax assessor-collector is the tax assessor-collector for the ESD, as the ESD cannot assess and collect its taxes through its own efforts. §775.074(e)

### **Sales and Use Tax**

Q: How can an ESD establish the sales and use tax?

A: An ESD may adopt, change the rate of, or abolish the sales and use tax by resolution or petition and an election. §775.0751(a)

Q: What is the maximum rate for an ESD sales and use tax?

A: The ESD may impose the tax at a rate from one eighth of one percent to two percent only if this amount is available when reviewing other taxing agencies in the ESD, with some exceptions that allow ESDs to exclude certain municipalities in determining the amount available for a possible sales and use tax. Taxation by all the political subdivisions in the ESD generally cannot exceed two percent. § 775.0751(c)

Q: How can the tax be used?

A: Revenue from the tax may be used for any purpose for which ad valorem tax revenue may be used. § 775.0751(b)

Q: What is the maximum tax rate?

A: A ESD may not adopt a tax or increase the rate of the tax if as a result of the adoption or tax increase the combined rate of all sales and use taxes imposed by the ESD and other political subdivisions would exceed two percent at any location, with certain exceptions. § 775.0751(c)

Q: What tax code applies to the administration of sales and use tax?

A: Chapter 323 of the Texas Tax Code. § 775.0751(e)

Q: What is the effective date for establishing the tax?

A: The tax rate takes effect on the first day of the first calendar quarter occurring after the expiration of the first complete calendar quarter occurring after the date on which the comptroller receives a notice of the results of the election. § 775.0753(a)

Q: What are the reasons for calling a sales and use tax election?



A: To adopt, abolish, or to change the rate of the tax. § 775.0752(a)

Q: How may a sales and use tax election be called?

A: By adoption of a resolution by the board. § 775.0752(b)

Q: If an election on the sales and use tax requested by petition, how many people are required to call a sales and use tax election?

A: At least five percent of the registered voters in the ESD. §775.0752(b)

## **Bonds and Notes**

Q: When can an ESD issue bonds and notes?

A: After a majority of the ESD's registered voters approve the issuance of bonds and notes and an election for that purpose. In addition, before the election may be held, the commissioner's court must approve the issuance of the bonds. §775.076(a), § 775.077, Texas Health & Safety Code.

Q: From what sources can these bonds be paid?

A: Ad valorem taxes, revenues, income or receipts, or a combination of taxes, revenues, incomes and receipts. § 775.076(b)

Q: How many years may it be until bonds and notes mature?

A: Not more than 40 years. § 775.076(c)

Q: May bonds and notes be redeemed before maturity?

A: Yes. § 775.076(j)

Q: For what purposes may the proceeds of bonds or notes be issued?

A: Paying interest on previous bonds or notes used for construction; paying expenses of operation and maintenance of these facilities; creating a reserve fund for the payment of the principal of and interest on bonds or notes; and creating any other funds. § 775.076(h)

Q: May bonds or notes be secured by taxes be authorized without the approval of a majority of voters?

A: No. § 775.077(a)

Q: In an election to approve bonds or notes payable from ad valorem taxes, what language must be on the ballot?

A: For or against, "the issuance of (bonds or notes) and the levy of ad valorem taxes adequate to provide for the payment of the (bonds or notes)." § 775.077(e)

Q: In elections to approve bonds or notes payable from both ad valorem taxes and revenues, what must the ballot be printed to read?

A: To vote for or against "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)." § 775.077(f)

Q: May an ESD issue bonds anticipation notes?

A: Yes. § 775.078(a)

Q If an ESD intends to pay for bond anticipation notes from subsequently issue bonds, is it

necessary to receive the approval of the attorney general or register with the comptroller of public accounts that this will be sufficient?

A: No. § 775.078(d)

Q: Do bonds or notes need to be examined?

A: Yes, they must be examined by the attorney general. § 775.078(d)

Q: When is the audit for the ESD due?

A: An ESD shall prepare and file with the commissioners court of each county that contains any part of the ESD on or before June 1 of each year an audit report of the ESD's fiscal accounts and records. § 775.082(b)

Q: Who pays for the audit?

A: The ESD. § 775.082(b)

### **C.6. Fire Marshal**

Q: Can the board appoint a fire marshal?

A: Yes, but only if the county does not have a fire marshal. It should be noted that not having a fire marshal does not preclude an ESD for adopting and enforcing a fire code. § 775.036, § 775.101(a), § 775.102, § 775.103, Texas Health & Safety Code.

Q: What is the ESD's fire marshal's jurisdiction?

A: The ESD fire marshal has jurisdiction in the ESD only and not in any area of the ESD that has a municipality or county fire marshal. § 775.105(a)

Q: What authority does the ESD fire marshal have?

A: The ESD fire marshal can:

- (1) investigate the cause, origin, and circumstances of each fire that damages property;
- (2) determine whether the fire was caused by negligent or intentional conduct; and
- (3) enforce all state, county, and ESD orders and rules that relate to fires, explosions, or damages caused by a fire or an explosion. § 775.108

Q: Is the ESD fire marshal allowed to make inspections in the ESD?

A: Yes. § 775.109(a)

Q: What can the fire marshal inspect?

A: Inspections can be made for "fire hazards" and if found order the correction of the hazard, and this is in addition to ESD powers to otherwise inspect for fire hazards. § 775.111(b)

Q: Does the fire marshal have other authority?

A: Yes, the marshal may: subpoena witnesses, administer oaths, take and preserve written statements, and conduct an investigation. § 775.113

Q: What is the penalty if a property owner does not comply with a fire marshal's order?

A: The offense is a class B misdemeanor. § 775.119(b)

### **C.7. Hazardous Materials**

Q: Can an ESD provide hazardous materials response?

A: Yes, not only under its general powers, but also it may bill for such a response. § 775.031, § 775.036, § 775.152(a), Texas Health & Safety Code.

Q: Is the ESD allowed to collect a fee for hazardous materials response?

A: Yes, in addition to its general power to collect a reasonable fee for services, it may also charge the responsible party for a hazardous materials incident. § 775.152(a)

### C.8. Annual Report

Q: What other annual reports are required to be made by the ESD?

A: On or before January 1 of each year the ESD shall file with the Texas Department of Rural Affairs an annual report that includes the following:

- (1) the ESD 's name;
- (2) the name of each county in which the ESD is located;
- (3) the ESD's business address;
- (4) the name, mailing address, and term of office of each commissioner;
- (5) the name, mailing address, and term of office of the ESD's general manager, executive director, and fire chief;
- (6) the name of each legal counsel or other consultant for the ESD; and
- (7) the ESD 's annual budget and tax rate for the preceding fiscal year.

**Upon request from a commissioner's court in which the district is located, Chapter 775 ESDs shall provide a written report regarding the district's budget, tax rate and debt service for the preceding fiscal year. The request for report must be made on or before December 31 and the report must be provided by no later than the following February 1. Texas Health and Safety Code 775.036(a) (Effective 9-1-09)**

In addition, if an ESD is located in more than one county, it must give a written report not later than February 1 of each year to the commissioners' court regarding the district's administration for the preceding calendar year and the district's financial condition. § 775.036(a), § 775.083(a), Texas Health & Safety Code.

Q: Are changes to the Board to be reported to anyone?

A: Changes are to be reported to TDRA before the end of the calendar quarter that the change is made. § 775.083(d)

## D. OPEN MEETINGS Q&A

*The following is available from the Attorney General of Texas. This information and more can be found online at [http://www.oag.state.tx.us/opinopen/og\\_training.shtml](http://www.oag.state.tx.us/opinopen/og_training.shtml) .*

Q: Why are public officials required to attend open government training?

A: The Texas Open Meetings Act and the Public Information Act (Govt. Code Chapters 551 and 552) apply to nearly every governmental body in Texas, yet there has not been a consistent way for public officials to receive training on how to comply with these laws. This is significant because a failure to comply with either the Open Meetings Act or Public Information Act may result in civil and criminal penalties for public officials, and can also lead to a general breakdown of confidence in our governing bodies.

The Office of the Attorney General has found that in most cases where a governmental body violates the open government laws, it is the result of public officials simply not knowing what the law requires. Inconsistent and inaccurate legal advice regarding these laws has sometimes added to the confusion.

Attorney General Greg Abbott called on the 79th Texas Legislature to enact legislation to require public officials to obtain open government training in an effort to promote openness and increase compliance with our "Sunshine laws." The Legislature responded by passing Senate Bill 286, which requires public officials to receive training in the requirements of the Open Meetings Act and Public Information Act beginning January 1, 2006.

Q: What does the law require with regard to open government training?

A: The Open Meetings Act (Government Code section 551.005) and the Public Information Act (Government Code section 552.012) impose mandatory open government educational requirements on elected and appointed officials who are subject to the those laws.

Q: When does the requirement for open government training take effect?

A: The requirement for open government training takes effect January 1, 2006.

Q: How much training is required?

A: The law requires at least two hours of open government training, consisting of a one-hour educational course on the Open Meetings Act and one-hour educational course on the Texas Public Information Act. Training is not to exceed a maximum of four hours.

Q: What is the deadline for completing open government training?

A: Officials who are elected or appointed after January 1, 2006 have 90 days within which to complete the required training.

Q: Who is required to complete the training?

A: Each elected or appointed official who is a member of a governmental body subject to the Open Meetings Act or the Public Information Act must attend training. Additionally, employees who serve as a governmental body's designated public information coordinator are required to complete the Public Information Act training course.

Q: How often are officials required to complete open government training?

A: Officials and others subject to the training requirements must complete a course of training at least once. There is no requirement for continuing education or "refresher" courses.

- Q: Are judicial officials and employees required to obtain open government training?  
 A: Judicial officials and judicial employees do not need to attend Public Information Act training, but may be responsible for completing Open Meetings Act training.

Judicial officials and employees do not need to obtain training regarding the Public Information Act because public access to information maintained by the court system is governed by Rule 12 of the Judicial Administration Rules of the Texas Supreme Court and by other applicable laws and rules. (See Govt. Code 552.0035). However, if a judge or judicial employee serves as a member of a governmental body subject to the Open Meetings Act, it is advised that they should comply with the Open Meetings Act training requirements. If you are unsure if the open government training requirement applies to you, please consult with the Office of the Attorney General or the Office of Court Administration.

- Q: What topics are covered by the training?  
 A: The law outlines the basic topics to be covered by the training. Open Meetings curriculum requirements:
- the general background of the legal requirements for open meetings;
  - the applicability of the Open Meetings Act to governmental bodies;
  - procedures and requirements regarding quorums, notice, and record-keeping under the Open Meetings Act;
  - procedures and requirements for holding an open meeting and for holding a closed meeting; and
  - penalties and other consequences for failure to comply with the Open Meetings Act.

Public Information Act curriculum requirements:

- the general background of the legal requirements for open records and public information;
  - the applicability of the Public Information Act to governmental bodies;
  - procedures and requirements regarding complying with open records requests;
  - the role of the attorney general under the Public Information Act; and
  - penalties and other consequences for failure to comply with the Public Information Act.
- Q: Do all public officials have to receive training on the Open Meetings Act?  
 A: Generally yes. The Open Meetings Act training requirement applies to all elected or appointed officials who routinely participate in meetings subject to that law as part of their regular duties; this includes most officials.

However, the law recognizes that some public officials do not conduct business in meetings subject to the Open Meetings Act. These might include, for example, law enforcement officials, auditors, or county clerks. These types of officials will not be required to complete training in the Open Meetings Act.

If you are unsure if the Open Meetings Act training requirements apply to you, you should consult your county or district attorney, or call the Attorney General's Open Government Hotline at 1-877-OPEN-TEX (1-877-673-6839).

- Q: Do all public officials have to receive training on the Public Information Act?  
 A: Yes, unless: (1) the official's governmental body employs a designated public information coordinator who is responsible for responding to Public Information Act requests on behalf of the governmental body; *and* (2) The designated public information coordinator completes an approved Public Information Act training course. There are no other exceptions.

All officials are strongly encouraged to complete the required Public Information Act training and should be advised that designation of a public information coordinator to complete training on their behalf does not relieve the public official of their duty to comply with the law.

Q: Do officers of entities that are not "governmental bodies" have to comply with the open government training requirements?

A: Only elected and appointed officials who serve with governmental bodies are required to obtain the training. However, if you are an official who serves with another type of entity that is required by law to comply with the Open Meetings Act or the Public Information Act, then you are strongly encouraged to complete the training, but not clearly required to do so by law. You may wish to consult with your organization's legal counsel for advice on the laws that apply to your organization.

Q: How can officials receive the required training?

A: The Office of the Attorney General will provide free training for all public officials through both online and video courses. The attorney general also anticipates that state agencies, local governments and other organizations will offer approved training courses.

Q: How can I obtain the Attorney General's Free Video Training?

A: The attorney general's free training videos are available for viewing at: [http://www.oag.state.tx.us/open/og\\_training.shtml](http://www.oag.state.tx.us/open/og_training.shtml)

Q: How do I obtain a course completion certificate once I have finished the Attorney General's free video training course?

A: You can obtain your course completion certificate(s) online, and entering the identification code that was provided at the end of your training video. If you are unable to complete your certificate online, please call the Attorney General's Public Information and Assistance line at (800) 252-8011 to have a completion certificate mailed to you. Please be prepared to give the call agent the proper identification code.

This certificate is to be maintained by the member's governmental body and made available for public inspection upon request.

Q: Can public officials who have already attended open government training in the past to opt-out of the new training requirements of Government Code 551.005 and 552.012?

A: No. There are no "grand-father" provisions for public officials who may have attended open government training in the past. Only training approved by the attorney general under the provisions of the new law will comply with the requirements of SB 286.

Q: How will public officials demonstrate that they have complied with the open government training requirements?

A: The entity providing the training is required to give the participant a certificate of course completion. The public official or public information coordinator is then required to keep the certificate on file with their governmental body and make it available for public inspection upon request.

Q: What is the penalty for failure to receive training?

A: The law imposes no specific penalty on officials who fail to attend open government training. The purpose of the new law is not to punish public officials, but to foster open government by making open government education a recognized obligation of public service.

Despite this lack of a penalty provision, officials should be cautioned that a deliberate failure to comply with the training requirements could result in an increased risk of criminal prosecution should they ever be accused of violating the Open Meetings Act or the Public Information Act.

Q: Will open government training count toward compliance with other continuing education requirements for public officials?

A: Yes. To avoid imposing duplicate training requirements on public officials, the attorney general is required to harmonize the Open Meetings and Public Information Act training required by the Open Meetings Act and the Public Information Act with any other statutory training requirements that may be imposed on public officials, such as those required of county commissioners under Local Govt. Code Section 81.0025.

Q: Can I become certified by the attorney general as an open government trainer?

A: No. The attorney general is not authorized to certify individuals, companies, or organizations to provide open government training. Rather, the law allows the attorney general the option to review and approve course materials used by others for the purpose of determining whether they are accurate and otherwise in compliance with the Open Meetings Act and the Public Information Act. In this way, the law places an emphasis on the quality of information provided to public officials, rather than the credentials of the trainer.

Q: How can I apply to the attorney general for approval of open government training course materials?

A: Applicants seeking approval of an open government training course must complete an online application and submit copies of their training course materials to the Office of the Attorney General in order to receive consideration.

Course approval is not required for entities that will rely on completion of the attorney general's video training course to satisfy the training requirements of the Open Meetings Act and the Public Information Act.

Q: Can governmental bodies conduct their own open government training?

A: Yes. Governmental entities may conduct their own internal training on the Open Meetings Act and the Public Information Act by either making the attorney general's free video training course available for their officials, or by obtaining attorney general approval of their own course materials to ensure that they are accurate, up-to-date, and meet the requirements of the Open Meetings Act and the Public Information Act.

Q: Will other types of entities be allowed to offer training courses?

A: Yes. Officials may obtain the required training from any person or entity that offers a training course utilizing course materials that have been properly reviewed and approved by the Office of the Attorney General.

Q: Do I need approval from the Office of the Attorney General to use the AG's Open Government training videos?

A: No. The attorney general's open government training videos are freely available for use. You are permitted to use this video as part of any training course on Open Government and you are free to make as many copies of the video as you may need.

## E. HELPFUL RESOURCES: CONTACTS AND WEB SITES

<b>Topic</b>	<b>Resource</b>
<b>Administrative Law</b>	<p><u>Office of the Attorney General</u>            300 W. 15th Street PO Box 12548            Austin, TX 78701 Austin, TX 78711-2548            Phone: 512-463-2100            Web: <a href="http://www.oag.state.tx.us">www.oag.state.tx.us</a>            See also: <a href="http://www.oag.state.tx.us/newspubs/publications.shtml#open">http://www.oag.state.tx.us/newspubs/publications.shtml#open</a></p>
<b>Technical and Financial</b>	<p><u>US Department of Agriculture Rural and Community Development</u>            1400 Independence Ave., SW            Washington, DC 20250            Web: <a href="http://www.rurdev.usda.gov/">www.rurdev.usda.gov/</a></p> <p><u>US Department of Agriculture (Texas office) Texas Rural Development Office</u>            101 South Main Street, Suite 102            Temple, TX 76501            Phone: 254-742-9700            Fax: 254-742-9709            Web: <a href="http://www.rurdev.usda.gov/tx">www.rurdev.usda.gov/tx</a></p> <p><i>About the USDA Rural and Community Development:            USDA Rural Development is committed to the future of rural communities. Our role is to increase rural residents' economic opportunities and improve their quality of life. We provide technical assistance and financial backing for rural businesses and cooperatives to create quality jobs in rural areas.</i></p>
<b>Annual Reporting</b>	<p><u>Texas Department of Rural Affairs</u>            1700 N. Congress, Ste 220 PO Box 12877            Austin, TX 78701 Austin, TX 78711-2877            Phone: 512-936-6701            Fax: 512-936-6776            Email: <a href="mailto:tdra@tdra.state.tx.us">tdra@tdra.state.tx.us</a>            Web: <a href="http://www.tdra.state.tx.us">www.tdra.state.tx.us</a></p>
<b>Charter</b>	<p><u>Secretary of State</u>            Business and Public Filings Division            PO Box 12887            Austin, Texas 78711-2887            Phone: 512-475-2755            Web: <a href="http://www.sos.state.tx.us/index.html">http://www.sos.state.tx.us/index.html</a></p>



<b>Topic</b>	<b>Resource</b>
	<p>Forms            Phone: 512-463-5586            Fax: 512-463-5709            Web: <a href="http://www.sos.state.tx.us/corp/forms_boc.shtml">http://www.sos.state.tx.us/corp/forms_boc.shtml</a></p>
<b>Conflict of Interest</b>	<p><u>Office of the Attorney General</u>            300 W. 15th Street                      PO Box 12548            Austin, TX 78701                      Austin, TX 78711-2548            Phone: 512-463-2100            Web: <a href="http://www.oag.state.tx.us">www.oag.state.tx.us</a>            See also: <a href="http://www.oag.state.tx.us/open/publications_og.shtml">http://www.oag.state.tx.us/open/publications_og.shtml</a></p>
<b>Training and Insurance</b>	<p><u>Texas Association of Counties</u>            1210 San Antonio Street              P.O. Box 2131            Austin, Texas 78701                      Austin, Texas 78768-2131            Phone: 512-478-8753            Fax: 512-478-0519            Web: <a href="http://www.county.org">www.county.org</a></p> <p>See also: <a href="http://www.county.org/counties/other.asp">http://www.county.org/counties/other.asp</a></p>
<b>Dual Office Holding</b>	<p><u>Office of the Attorney General</u>            300 W. 15th Street                      PO Box 12548            Austin, TX 78701                      Austin, TX 78711-2548            Phone: 512-463-2100            Web: <a href="http://www.oag.state.tx.us">www.oag.state.tx.us</a>            See also: <a href="http://www.oag.state.tx.us/open/publications_og.shtml">http://www.oag.state.tx.us/open/publications_og.shtml</a></p>
<b>Elections</b>	<p>Election Code (Texas): <a href="http://www.statutes.legis.state.tx.us/?link=EL">http://www.statutes.legis.state.tx.us/?link=EL</a></p> <p>Pre-clearance (US Department of Justice):  <a href="http://www.ethics.state.tx.us/statutes/05tit15.htm">http://www.ethics.state.tx.us/statutes/05tit15.htm</a></p>
<b>Emergency Management</b>	<p><u>Governor's Division of Emergency Management</u>  <u>Texas Department of Public Safety</u>            5805 North Lamar Blvd.              PO Box 4087            Austin, Texas 78752                      Austin, Texas 78773-0220            Phone: 512-424-2138            Fax: 512-424-2444            Web: <a href="http://www.txdps.state.tx.us/dem/index.htm">http://www.txdps.state.tx.us/dem/index.htm</a></p> <p><i>About GDEM:</i>  <i>GDEM is charged with carrying out a comprehensive all-hazard emergency management program for the State and for assisting cities, counties, and state agencies in planning and implementing their emergency management programs. A comprehensive emergency management program includes pre and post-disaster mitigation of known hazards to reduce their impact; preparedness activities, such as emergency planning, training, and exercises; provisions for effective response to emergency situations; and recovery programs for major disasters. Chapter 418 of the Texas Government Code lays out an</i></p>

<b>Topic</b>	<p><b>Resource</b> <i>extensive set of specific responsibilities assigned to the Division.</i></p> <p><i>GDEM is also responsible for supporting development of the Governor's Homeland Security Strategy and implementing programs and projects to achieve state homeland security goals and objectives. The Division serves as the State Administrative Agency (SAA) for US Department of Homeland Security grant programs.</i></p> <p><u>Texas Department of State Health Services</u> <u>Bureau of Emergency Management</u> The Exchange Building      <i>All mail must go to this address:</i> 8407 Wall Street, Suite N-410 1100 West 49th Street Austin, TX 78754                  Austin, TX 78756-3199 Phone: 512-834-6700 FAX: 512-834-6736 Web: <a href="http://www.dshs.state.tx.us/preparedness/e-prep_public.shtm">http://www.dshs.state.tx.us/preparedness/e-prep_public.shtm</a></p>
<b>Eminent Domain</b>	<p><u>Office of the Attorney General</u> 300 W. 15th Street                  PO Box 12548 Austin, TX 78701                  Austin, TX 78711-2548 Phone: 512-463-2100 Web: <a href="http://www.oag.state.tx.us">www.oag.state.tx.us</a> See also: <a href="http://www.oag.state.tx.us/newspubs/publications.shtml#open">http://www.oag.state.tx.us/newspubs/publications.shtml#open</a></p>
<b>Equipment</b>	<p><u>Texas Building and Procurement Commission</u> 1711 San Jacinto                  PO Box 13047 Austin, TX 78701                  Austin, TX 78711-3047 Phone: 512-463-6363 Web: <a href="http://www.sos.state.tx.us/texreg/transfers/building070607.html">http://www.sos.state.tx.us/texreg/transfers/building070607.html</a></p> <p><i>About TBPC:</i> <i>The Texas Building and Procurement Commission disposes of salvage and surplus personal property from Texas State agencies. Eligible entities such as other Texas State agencies, political subdivisions, and assistance organizations may contact the agency offering the property to arrange a transfer at a price established by the agency. If property is not transferred to an eligible entity, the general public is invited to purchase the property by competitive sealed bid, live auctions, internet auctions or at one of our retail storefronts.</i></p> <p><u>Houston-Galveston Area Council of Governments Cooperative Purchasing Program</u> 3555 Timmons Lane, Suite 120 Houston, TX 77027 For more information about the program, contact H-GAC staff Mondays through Fridays (7:30 a.m. to 5:00 p.m. CT) at 1-800-926-0234. Web: <a href="http://www.hgacbuy.org">www.hgacbuy.org</a></p> <p>HGACBuy, the cooperative purchasing program of the Houston-Galveston Area Council, has traditionally been</p>

**Topic****Resource**

known for its extensive array of competitively bid contracts in high ticket capital goods such as fire trucks, police cars, and construction equipment. However, in the last few years, HGACBuy has expanded by negotiating competitively procured contracts in many new service-related areas including:

- Environmental Consulting
- Community Planning
- Homeland Security Consulting & Training
- Insurance Consulting
- Marketing & Public Relations Services

**Emergency  
Medical  
Services**Texas Department of State Health ServicesBureau of Emergency Management

The Exchange Building      *All mail must go to:*  
 8407 Wall Street, Suite N-410 1100 West 49th Street  
 Austin, TX 78754                      Austin, TX 78756-3199

Phone: 512-834-6700

Fax: 512-834-6736

Web: <http://www.dshs.state.tx.us/emstraumasystems/default.shtm>

*About TDSHS' Bureau of EMS:*

*The Texas Department of Health, Bureau of Emergency Management, is the lead state agency responsible for:*

- *Emergency Medical Services systems*
- *EMS professional certification and licensure*
- *EMS education, trauma systems and trauma facility designation*
- *EMS information and injury prevention*
- *Medical Standards on Motor Vehicle Operations*
- *Texas EMS Conference*
- *Texas EMS Magazine*

*This Bureau is responsible for about 48,000 EMS professionals, 850 EMS provider agencies, 475 first responder organizations and 125 designated trauma facilities across Texas. In addition to certification, licensure and designation, the Bureau also takes a lead in educating the public about EMS and injury prevention, and provides millions of dollars in grants each year to Texas EMS systems and trauma facilities for education, training and equipment.*

VolunteerEMS.org

Web: [www.volunteerems.org/cms/](http://www.volunteerems.org/cms/)

*About volunteerems.org:*

*Our goal is to bring together emergency medical services volunteers -- past, present and future -- to provide the best for our communities. Site offers Volunteer EMS information and exchange in forum format.*

<b>Topic</b>	<b>Resource</b>
<b>Establishing an ESD</b>	<p><u>Texas Department of Rural Affairs</u>            1700 N Congress Ave., Ste 220      PO Box 12877            Austin, TX 78701                      Austin, TX 78711            Phone: 512-936-6701            Toll free: 800-544-2042            Fax: 512-936-6776            Email: <a href="mailto:tdra@tdra.state.tx.us">tdra@tdra.state.tx.us</a>            Web: <a href="http://www.tdra.state.tx.us">www.tdra.state.tx.us</a></p> <p><i>TDRA provides information, guidance and advice to ESDs and those interested in researching the establishment of ESDs. The agency serves as a resource, not an advocate, for the establishment and maintenance of ESDs.</i></p>
<b>Ethics, Gift and Honorarium</b>	<p><u>Office of the Attorney General</u>            300 W. 15th Street                      PO Box 12548            Austin, TX 78701                      Austin, TX 78711-2548            Phone: 512-463-2100            Web: <a href="http://www.oag.state.tx.us">www.oag.state.tx.us</a></p> <p>See also : <a href="http://www.oag.state.tx.us/open/publications_og.shtml">http://www.oag.state.tx.us/open/publications_og.shtml</a></p>
<b>Fair Labor Standards</b>	<p><u>US Department of Labor</u>  <u>Employment Standards Administration</u>  <u>Wage and Hour Division</u>            Frances Perkins Building            200 Constitution Avenue, NW            Washington, DC 20210            Toll Free: 866-487-9243            Web: <a href="http://www.dol.gov/whd/flsa/index.htm">http://www.dol.gov/whd/flsa/index.htm</a></p>
<b>Federal Emergency Management Agency</b>	<p><u>Federal Emergency Management Agency, Region VI</u>            Federal Emergency Management Agency            FRC 800 North Loop 288            Denton, TX 76209-3698            Main Number:( 940) 898-5399            Web: <a href="http://www.fema.gov/about/contact/regionvi.shtm">http://www.fema.gov/about/contact/regionvi.shtm</a></p>
<b>Fire Administration, US</b>	<p><u>US Fire Administration</u>            16825 South Seton Avenue            Emmitsburg, MD 21727            Phone: 301-447-1000            Fax: 301-447-1346            Web: <a href="http://www.usfa.dhs.gov/">http://www.usfa.dhs.gov/</a></p> <p><i>About the USFA:</i>  <i>As an entity of the Department of Homeland Security, the mission of the USFA is to reduce life and economic losses due to fire and related emergencies, through leadership, advocacy, coordination, and support.</i></p>

<b>Topic</b>	<b>Resource</b>
<b>Fire and Emergency Districts, State Association of (SAFE-D)</b>	<p data-bbox="488 226 1386 415"><i>USFA serves the nation independently, in coordination with other federal agencies, and in partnership with fire protection and emergency service communities. USFA offers training and educational opportunities for the Fire Service and allied organizations. Also available are fire statistics, public fire education campaign materials, and information on funding opportunities.</i></p> <p data-bbox="488 449 1235 667"><u>State Association of Fire and Emergency Districts – SAFE-D</u> P.O. Box 676 Pflugerville, TX 78691 Phone: 512-251-8101 Fax: 512-251-8152 Email: safed@texas.net Web: <a href="http://safe-d.org">http://safe-d.org</a></p> <p data-bbox="488 701 1281 764">This association has membership from ESDs in Texas and offers training, information, and political updates.</p>
<b>Fire Chiefs Association, Texas</b>	<p data-bbox="488 863 854 1083"><u>Texas Fire Chiefs Association</u> PO Box 66700 Austin, TX 78766 Phone: 512-454-6350 Toll Free: 800-435-9074 Fax: 512-220-1521 Web: <a href="http://www.texasfirechiefs.org/">http://www.texasfirechiefs.org/</a></p> <p data-bbox="488 1117 1386 1306"><i>About the TFCA: The Texas Fire Chiefs Association believes in serving the citizens of Texas by actively participating in the advancement of the fire service through positive leadership, the sharing of information, and active legislative involvement, while maintaining the highest ethical and professional standards.</i></p>
<b>Fire Department  Organizational Assistance,</b>	<p data-bbox="488 1341 979 1530"><u>Texas Interagency Coordination Center</u> 1097 Texas Forest Service Loop Lufkin, TX 75904 Phone: 936-875-4786 Fax: 936-875-4812 Web: <a href="http://www.tamu.edu/ticc/">http://www.tamu.edu/ticc/</a></p> <p data-bbox="488 1564 1162 1593">See also: <a href="http://www.tamu.edu/ticc/firedepartment.htm">http://www.tamu.edu/ticc/firedepartment.htm</a></p> <p data-bbox="488 1627 1321 1690">For additional information and links to other resources, click on the "Information Directory" button on the home page.</p> <p data-bbox="488 1724 1386 1877"><i>About TICC: The Texas Interagency Coordination Center (TICC) is a cooperative effort of the Texas Forest Service, United States Fish &amp; Wildlife Service, USDA Forest Service, National Park Service and Bureau of Indian Affairs. The purpose of this site is to provide information and assistance to the above</i></p>

<b>Topic</b>	<b>Resource</b>
	<p><i>agencies and their cooperators in the safe and effective management of emergency response activities.</i></p> <p><u>International Fire Chiefs Association (IAFC)</u></p> <p>4025 Fair Ridge Drive, Suite 300 Fairfax, VA 22033-2868</p> <p>Phone: 703-273-0911</p> <p>Web: <a href="http://www.iafc.org/">http://www.iafc.org/</a></p>
<p><b>Fire Department, Volunteer</b></p> <p><i>See also, State Firemen's &amp; Fire Marshals' Association</i></p>	<p><u>Texas Forest Service (Member of the Texas A&amp;M System)</u></p> <p>301 Tarrow, Suite 364 College Station, TX 77840-7896 Phone: 979-458-6606 Fax: 979-458-6610 Email: <a href="mailto:tx-stateforester@tfs.tamu.edu">tx-stateforester@tfs.tamu.edu</a> Web: <a href="http://texasforestservice.tamu.edu/fire/vfd/Default.asp">http://texasforestservice.tamu.edu/fire/vfd/Default.asp</a></p> <p><u>National Volunteer Fire Council</u></p> <p>1050 17th Street NW, Ste. 490 Washington, DC 20036 Phone: 202-887-5700 Toll Free: 888-275-6832 Fax: 202-887-5291 Web: <a href="http://www.nvfc.org/">http://www.nvfc.org/</a></p> <p><i>About NVFC:</i> <i>The National Volunteer Fire Council is a non-profit membership association representing the interests of the volunteer fire, EMS and rescue services. The NVFC serves as the information source regarding legislation, standards and regulatory issues. NOTE: The NVFC maintains a list of grant assistance programs.</i></p> <p><u>VolunteerFD.org</u></p> <p>Jason Zigmont, Founder Email: <a href="mailto:Jason@volunteerfd.org">Jason@volunteerfd.org</a> Web: <a href="http://volunteerfd.org/">http://volunteerfd.org/</a></p> <p><i>About volunteerFD.org:</i> <i>VolunteerFD.org provides a place for volunteer firefighters to share information with their fellow 'unpaid professionals'. VolunteerFD.org is strictly for volunteer and combination departments and is built to address the unique issues that all volunteer departments share, including, but are not limited to:</i></p> <ul style="list-style-type: none"> <li>- Bylaws - Grants</li> <li>- Standard Operating Guidelines</li> <li>- Fund Raising</li> <li>- Recruitment and Retention</li> <li>- Training</li> </ul> <p><u>Volunteer &amp; Combination Officers Section</u></p>

<b>Topic</b>	<b>Resource</b>
	<p><i>About VCOS:</i>  <i>The Volunteer and Combination Officers Section is provided by the IAFC to provide Chief Officers who manage volunteers within a volunteer or combination Fire, Rescue or EMS delivery system with information, education, services and representation to enhance their professionalism.</i></p> <p><i>Web:</i> <a href="http://www.vcos.org/">http://www.vcos.org/</a></p>
<b>Fire Preparedness</b>	<p><u>US Fish and Wildlife Service</u>  <u>Fire Management</u>            Web: <a href="http://www.fws.gov/">http://www.fws.gov/</a></p> <p><i>About the FWS' Fire Management:</i>  <i>The FWS conforms to the highest interagency standards of training, operations, and safety, as outlined by the National Wildfire Coordinating Group (NWCG) and benefits from the expertise of other partner agencies.</i></p>
<b>Fire Protection, Texas Commission on</b>	<p><u>Texas Commission on Fire Protection</u>            1701 N Congress Ave., Ste 1-105      PO Box 2286            Austin, TX 78701      Austin, TX 78768-2286            Phone: 512-936-3838            Fax: 512-936-3808            Web: <a href="http://www.tcfp.state.tx.us">www.tcfp.state.tx.us</a>            See also: <a href="http://www.tcfp.state.tx.us/links.asp">www.tcfp.state.tx.us/links.asp</a></p> <p><i>About TCFP:</i>  <i>The commission's two major goals are to:</i></p> <ul style="list-style-type: none"> <li>- provide education and assistance to the fire service, and</li> <li>- enforce statewide fire service standards.</li> </ul> <p><i>Training and loan and scholarship assistance may be available to qualifying fire departments and local fire protection organizations.</i></p>
<b>Fire Training</b>	<p><u>Texas Engineering Extension Service</u>            Texas A&amp;M University System            301 Tarrow            College Station, TX 77840-7896            Phone: 979-458-6800 (Main number)            Phone: 866-878-8900 (Emergency Services Training Institute)            Web: <a href="http://www.teex.com/">http://www.teex.com/</a></p> <p><i>About the Engineering and Extension Service:</i>  <i>The Texas Engineering Extension Service develops a skilled and trained workforce that enhances public safety, security and economic growth of Texas and the nation through training, technical assistance and emergency response.</i></p> <p><u>State Firemen's &amp; Fire Marshals' Association</u>            4450 Frontier Trail            Austin, TX 78745            Phone: 512-454-3473</p>

**Topic****Resource**

Fax: 512-453-1876

Web: <http://www.sffma.org>*About SFFMA:*

*The SFFMA supports and sponsors the world's largest fire training school, held each summer at Texas A&M University, providing instructors, scholarships to members, and professional service on the Fire School's Advisory Board. offers training, certification and information to volunteer firefighters.*

US Department of Homeland SecurityPreparedness DirectorateUS Fire Administration

16825 S. Seton Ave.

Emmitsburg, MD 21727

Phone: 301-447-1000

Fax: 301-447-1346

Web: <http://www.usfa.dhs.gov/grants/sfts/>*The USFA's mission:*

*To provide financial assistance to State Fire Training Systems for the delivery of a variety of National Fire Academy (NFA) courses/programs.*

Texas Forest Service

301 Tarrow, Ste. 364

College Station, TX 77840

Phone: 979-458-6606

Fax: 979-458-6610

Email: [tfs@tfs.tamu.edu](mailto:tfs@tfs.tamu.edu)Web: <http://txforestservice.tamu.edu/>*About TFS:*

*The TFS assists rural fire operations with grants to purchase trucks, vehicle insurance pool, surplus equipment donations, bulk purchase of fire equipment as well as conducting training programs for volunteer fire departments. ESD's are **eligible for grants for training only.***

**Fire Fighters'  
Pension  
Commission,  
Texas**Texas Fire Fighters' Pension CommissionTexas Emergency Services Retirement SystemTexas Local Fire Fighters Retirement Act

E.O. Thompson Building, 11th Floor P.O. Box 12577

920 Colorado St Austin, TX 78711

Austin Texas 78701

Phone: 512-936-3372

Toll Free: 800-919-3372

Fax: 512-936-3480

Web: <http://www.ffpc.state.tx.us/>



<b>Topic</b>	<b>Resource</b>
	<p><i>About the TFFPC:</i>  <i>The Commissioner's mission is to provide effective and sound benefit to volunteer departments under TESRS (Title 8 Government Code, Subtitle H) and to volunteer and paid departments under TLFFRA, Article 6243e V.T.C.S.</i></p>
<b>Fire Incident Reporting System (TXFIRS)</b>	<p><u>Texas Department of Insurance</u>  <u>State Fire Marshal Fire Incident Reporting System</u>            333 Guadalupe P.O. Box 149221            Austin, Texas 78701 Austin, TX 78714-9221            Phone: 512-305-7900            Toll Free: 800-578-4677</p> <p>Web: <a href="http://www.tdi.state.tx.us/fire/fmtexfir.html">http://www.tdi.state.tx.us/fire/fmtexfir.html</a></p> <p><i>About TEXFIRS:</i>  <i>TEXFIRS collects and maintains data from fire departments and compiles statistics on fires in an effort to determine the impact of fire on lives and property in Texas.</i></p>
<b>Firemen's &amp; Fire Marshals' Association, State (SFFMA)</b>	<p><u>State Firemen's &amp; Fire Marshals' Association</u>            4450 Frontier Trail            Austin, TX 78745            Phone: 512-454-3473            Fax: 512-453-1876            Web: <a href="http://www.sffma.org">http://www.sffma.org</a></p> <p><i>About SFFMA:</i>  <i>The SFFMA supports and sponsors the world's largest fire training school, held each summer at Texas A&amp;M University, providing instructors, scholarships to members, and professional service on the Fire School's Advisory Board. offers training, certification and information to volunteer firefighters.</i></p>
<b>First Responders</b>	<p><u>Texas Department of State Health Services</u>  <u>Bureau of Emergency Management</u>            The Exchange Building All mail must go to this address:            8407 Wall Street, Suite N-410 1100 West 49th Street            Austin, TX 78754 Austin, TX 78756-3199            Phone: 512-834-6700            Fax: 512-834-6736            Web: <a href="http://www.dshs.state.tx.us/emtraumasystems/emsdirectory.shtm">http://www.dshs.state.tx.us/emtraumasystems/emsdirectory.shtm</a></p> <p><i>About TDSHS' Bureau of EMS:</i>  <i>The Texas Department of Health, Bureau of Emergency Management, is the lead state agency responsible for:</i></p> <ul style="list-style-type: none"> <li>- Emergency Medical Services systems</li> <li>- EMS professional certification and licensure</li> <li>- EMS education, trauma systems and trauma facility designation</li> </ul>

**Topic****Resource**

- *EMS information and injury prevention*
- *Medical Standards on Motor Vehicle Operations*
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- *Texas EMS Magazine*

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Office of EMS/Trauma Systems Coordination

Texas Department of State Health Services

1100 W. 49th St.

Austin, TX 78756-3199

Attention: Emergency Care Attendant Training Fund Program

E-mails: [roxanne.cuellar@dshs.state.tx.us](mailto:roxanne.cuellar@dshs.state.tx.us)

Phone: 512-834-6700, ext. 2377

Web: <http://www.dshs.state.tx.us/emstraumasystems/TrainingFunding.shtm>

*Free ECA training courses is offered to be conducted at times and locations that can be convenient to students.*

Texas Forest Service

301 Tarrow, Ste. 364

College Station, TX 77840

Phone: 979-458-6606

Fax: 979-458-6610

Email: [tfs@tfs.tamu.edu](mailto:tfs@tfs.tamu.edu)

Web: <http://txforestservice.tamu.edu/>

About TFS:

*The TFS assists rural fire operations with grants to purchase trucks, vehicle insurance pool, surplus equipment donations, bulk purchase of fire equipment, and grants for training programs for volunteer fire departments.*

Responder Knowledge Base

Phone: 703-641-2078

Web: <https://www.rkb.mipt.org/>

About RKB:

*“Created to provide Emergency Responders, purchasers, and planners with a trusted, integrated, on-line source of information on products, standards, certifications, grants, and other equipment-related information.” This site is funded by the Department of Homeland Security and hosted by the Memorial Institute for Prevention of Terrorism.*

<b>Topic</b>	<b>Resource</b>
<p><b>Grants, Loan Identification, and Assistance</b></p> <p>(Also see: Texas Forest Service, Texas Commission on Fire Protection, USDA Rural Development Office, and Texas Homeland Security)</p>	<p>Association of Rural Communities in Texas P. O. Box 200847 Austin, TX 78720-0847 Email: <a href="mailto:info@arcit.org">info@arcit.org</a> Web: <a href="http://www.arcit.org">http://www.arcit.org</a></p> <p><u>Federal Excess Personal Property (FEPP)</u> Web: <a href="http://www.gpoaccess.gov/topics/grants.html">http://www.gpoaccess.gov/topics/grants.html</a></p> <p><i>This agency handles federal property purchased for use by a federal agency, but no longer needed by that agency. It is then acquired by the USDA Forest Service for loan to one of the 50 states or territories for use in the state's rural or wildland fire protection program. It stays in service to the U.S., protecting lives and property across the nation</i></p> <p><u>FireGrantsHelp.com</u> Web: <a href="http://www.firegrantshelp.com">http://www.firegrantshelp.com</a></p> <p><i>The mission of FireGrantsHelp.com is to provide members of the first responder community with a comprehensive resource for grant information and assistance. The site features a grant data base.</i></p> <p><u>Grants.Com</u> U.S. Department of Health and Human Services Office of Grants 200 Independence Avenue, S.W. HHH Building Washington, DC 20201 Phone: 800-518-4726. Email: <a href="mailto:support@grants.gov">support@grants.gov</a> Web: <a href="http://www.grants.gov">http://www.grants.gov</a></p> <p><i>Grants.gov is a central storehouse for information on over 1,000 grant programs and access to approximately \$400 billion in annual awards. By registering once on this site, your organization can apply for grants from the 26 Federal grant-making agencies.</i></p> <p><u>Office of the Governor</u> <u>State Grants Team</u> 1100 San Jacinto, Suite 4.402      P.O. Box 12428 Austin, TX 78701                      Austin, TX 78711 Phone: 512-463-8465 Fax: 512-936-2681 Email: <a href="http://governor.state.tx.us/grants/">http://governor.state.tx.us/grants/</a></p> <p>Texas Department of Rural Affairs <u>(TDRA)</u> Post Office Box 12877 Austin, Texas 78711 Phone: 512-936-6701 Toll Free: 800-544-2042 Web:</p>

<b>Topic</b>	<b>Resource</b>
	<p><a href="http://www.tdra.state.tx.us/index.php/Home/Grants+Clearinghouse">http://www.tdra.state.tx.us/index.php/Home/Grants+Clearinghouse</a></p> <ul style="list-style-type: none"> <li>• <i>TDRA's Grants &amp; Funding Clearinghouse provides rural communities, grant seekers, and grant writers with: Current grant funding opportunities;</i></li> <li>• <i>Tools for grant writers; and</i></li> <li>• <i>Resources for nonprofits and community-based organizations</i></li> </ul> <p><u>Online Grant Writing Course</u>  Web: <a href="http://www.theideabank.com/grantlibrary.html">http://www.theideabank.com/grantlibrary.html</a></p> <p><i>This site gives help for grant writing and fund sources for the fire service.</i></p> <p><u>The Idea Bank Electronic Catalog</u>  1139 Alameda Padra Serra  Santa Barbara, CA 93103  Phone: 800-621-1136  Email: <a href="mailto:info@theideabank.com">info@theideabank.com</a>  Web: <a href="http://www.theideabank.com/index.php">http://www.theideabank.com/index.php</a></p> <p><i>This site gives grant writing information directed to the fire service.</i></p> <p><u>Texas Association of Resource Conservation and Development (RC&amp;D)</u>  1716 Briarcrest Drive, Suite 510  Bryan, TX 77802-2700  Phone: 979-846-0819  Fax: 979-846-0923  Web: <a href="http://www.texasrcd.org/">http://www.texasrcd.org/</a></p> <p><i>About RC&amp;Ds:</i>  <i>Resource Conservation and Development (RC&amp;D) is a unique program that is led by local volunteer councils that help people care for and protect their natural resources in a way that improves the local economy, environment and living standards. RC&amp;D is a way for people to work together to plan and carry out activities that will make their areas a better place to live. May offer grant and loan identification assistance to emergency services providers and ESDs.</i></p> <p><u>Texas Facilities Commission</u>  1711 San Jacinto  Austin, Texas 78701  Phone: 512-463-3446  Web: <a href="http://www.tfc.state.tx.us/">http://www.tfc.state.tx.us/</a></p>
Health and Safety Code (Texas)	<p><u>Texas Government Code (Title 2, Chapter 775):</u>  <a href="http://www.legis.state.tx.us/">http://www.legis.state.tx.us/</a>  <i>(scroll down to click on Chapter 775)</i></p>
<b>Internal Revenue Service – 501©3 exemption</b>	<p><u>Internal Revenue Service</u>  Web: <a href="http://www.irs.gov/charities/charitable/article/0,,id=96099,00.html">http://www.irs.gov/charities/charitable/article/0,,id=96099,00.html</a>  <u>Texas local IRS Offices:</u></p>

<b>Topic</b>	<b>Resource</b>
	<p><a href="http://www.irs.gov/localcontacts/article/0,,id=98337,00.html">http://www.irs.gov/localcontacts/article/0,,id=98337,00.html</a></p> <p><i>Requirements are listed to be tax-exempt under section 501©3. Also listed are the forms, publications, and where to file.</i></p>
<b>National Incident Management System (NIMS)</b>	<p><u>National Incident Management System (NIMS)</u>            Email: NIMS-Integration-Center@dhs.gov            Web: <a href="http://www.nimsonline.com/">http://www.nimsonline.com/</a>            See also: <a href="http://www.fema.gov/emergency/nims/index.shtm">http://www.fema.gov/emergency/nims/index.shtm</a>            See also: Training: <a href="http://training.fema.gov/">http://training.fema.gov/</a>            See also: Noble Training Center:  <a href="http://training.fema.gov/emiweb/ntc">http://training.fema.gov/emiweb/ntc</a>            See also: State level training: <a href="http://www.usfa.fema.gov/pocs/">http://www.usfa.fema.gov/pocs/</a></p> <p>About NIMS:  <i>While most emergency situations are handled locally, when there's a major incident help may be needed from other jurisdictions, the state and the federal government. NIMS was developed so responders from different jurisdictions and disciplines can work together better to respond to natural disasters and emergencies, including acts of terrorism. NIMS benefits include a unified approach to incident management; standard command and management structures; and emphasis on preparedness, mutual aid and resource management.</i></p>
<b>Nepotism</b>	<p><u>Office of the Attorney General</u>            300 W. 15th Street PO Box 12548            Austin, TX 78701 Austin, TX 78711-2548            Phone: 512-463-2100            Web: <a href="http://www.oag.state.tx.us">www.oag.state.tx.us</a>            See also: <a href="http://www.oag.state.tx.us/open/publications_og.shtml">http://www.oag.state.tx.us/open/publications_og.shtml</a></p>
<b>Open Government</b>	<p><u>Office of the Attorney General</u>            300 W. 15th Street PO Box 12548            Austin, TX 7870 Austin, TX 78711-2548            Phone: 512-463-2100            Web: <a href="http://www.oag.state.tx.us">www.oag.state.tx.us</a></p> <p>Publications:  <a href="http://www.oag.state.tx.us/newspubs/publications.shtml#open">http://www.oag.state.tx.us/newspubs/publications.shtml#open</a></p> <p>Training videos, handbooks, certificates:  <a href="http://www.oag.state.tx.us/opinopen/og_training.shtml">http://www.oag.state.tx.us/opinopen/og_training.shtml</a>  <a href="http://www.oag.state.tx.us/open/publications_og.shtml">http://www.oag.state.tx.us/open/publications_og.shtml</a></p> <p>Q&amp;A:  <i>Note per OAG's site:            Effective January 1, 2006, elected and appointed public officials are required by a new state law to receive training in Texas open government laws. The Office of the Attorney General offers free video training courses,</i></p>

<b>Topic</b>	<b>Resource</b>
	<i>which were developed in compliance with a mandate from the 79th Texas Legislature that the Attorney General establish the formal training necessary to ensure that all elected and appointed government officials have a good command of both open records and open meetings laws.</i>
<b>Open Meetings</b>	<u>Office of the Attorney General</u> 300 W. 15th Street                      PO Box 12548 Austin, TX 78701                      Austin, TX 78711-2548 Phone: 512-463-2100 Web: <a href="http://www.oag.state.tx.us">www.oag.state.tx.us</a> See also: <a href="http://www.oag.state.tx.us/open/publications_og.shtml">http://www.oag.state.tx.us/open/publications_og.shtml</a>
<b>Public Health Preparedness</b>	<u>Texas Department of State Health Services</u> Public Health Preparedness Division 1100 West 49th Street Austin, Texas 78756 Web: <a href="http://www.dshs.state.tx.us/preparedness/">http://www.dshs.state.tx.us/preparedness/</a>
<b>Public Information</b>	<u>Office of the Attorney General</u> 300 W. 15th Street                      PO Box 12548 Austin, TX 78701                      Austin, TX 78711-2548 Phone: 512-463-2100 Web: <a href="http://www.oag.state.tx.us">www.oag.state.tx.us</a> See also: <a href="http://www.oag.state.tx.us/open/publications_og.shtml">http://www.oag.state.tx.us/open/publications_og.shtml</a>
<b>Purchasing</b>	<a href="http://www.window.state.tx.us/">http://www.window.state.tx.us/</a>
<b>Records Management Assistance</b>	<u>Texas State Library and Archives Commission</u> <u>Local Records Management Assistance</u> 1201 Brazos                                      PO Box 12927 Austin, TX 78701                              Austin, Texas 78711 Phone: 512-463-5455 Email: <a href="mailto:info@tsl.state.tx.us">info@tsl.state.tx.us</a> Web: <a href="http://www.tsl.state.tx.us/slrm/local/index.html">www.tsl.state.tx.us/slrm/local/index.html</a>  <i>Offers training and consulting services for local governments.</i>
<b>Statutes (Texas)</b>	Web: <a href="http://www.legis.state.tx.us/">http://www.legis.state.tx.us/</a>
<b>Taxes</b>	<u>Texas Comptroller of Public Accounts</u> PO Box 13528 Austin, Texas 78711-3528 Phone: 800-252-5555 (Sales and Use Tax) Phone: 800-252-9121 (Property Tax) Phone: 800-531-5441 (Local Revenue) "Truth-in-Taxation" publication: <a href="http://www.window.state.tx.us/taxinfo/proptax/tnt08/">http://www.window.state.tx.us/taxinfo/proptax/tnt08/</a>

<b>Topic</b>	<b>Resource</b>
	<p><a href="http://www.window.state.tx.us/government.html">http://www.window.state.tx.us/government.html</a> Sales Tax forms, publications, statutes, rules and Q&amp;A: <a href="http://www.window.state.tx.us/">http://www.window.state.tx.us/</a></p> <p>See also: <a href="http://www.window.state.tx.us/taxes/">http://www.window.state.tx.us/taxes/</a></p>
<b>Texas Homeland Security</b>	<p><u>Texas Homeland Security</u> Web: <a href="http://www.texashomelandsecurity.com/">http://www.texashomelandsecurity.com/</a></p> <p>Texas Homeland Security Grant Program Web: <a href="http://www.txdps.state.tx.us/dem/mitigation/HMGPCap.pdf">http://www.txdps.state.tx.us/dem/mitigation/HMGPCap.pdf</a></p>

## **F. GLOSSARY OF TERMS**

**ad valorem tax**

An ad-valorem tax is a tax based on the value of real estate or personal property. Property ad-valorem taxes are the major source of revenues for state and local governments. An ad-valorem tax is typically imposed at the time of a transaction (a sales tax or value-added tax (VAT)) but it may be imposed on an annual basis (property tax) or in connection with another significant event (inheritance tax or tariffs).

**affidavit**

An affidavit is a formal sworn statement of fact, signed by the declarant (who is called the *affiant*), and witnessed (as to the veracity of the affiant's signature) by a taker of oaths, such as a notary public. The name is Medieval Latin for *he has declared upon oath*.

**ARCIT**

Association of Rural Communities in Texas

**audit**

An audit is an evaluation of an organization, system, process, project or product. In accounting, an audit is an independent assessment of the fairness by which a company's financial statements are presented by its management. It is performed by competent, independent and objective person or persons, known as auditors or accountants.

Audits are performed to ascertain the validity and reliability of financial information, and also provide an assessment of a company or a business' system of internal control. Such systems must adhere to generally accepted standards set by governing bodies that regulate businesses. An audit is based on random sampling and is not an assurance that financial statements are free from errors. It simply provide an assurance for third parties or external users that such statements present 'fairly' a company's financial condition and results of operations.

**automatic aid agreement**

Agreement between emergency departments that determine when both departments are dispatched at the same time is an automatic aid agreement.

**bond anticipation note**

A bond anticipation note (BAN) is a short-term interest-bearing security issued in the anticipation of larger future bond issues. Bond anticipation notes are smaller short-term bonds issued by governments and corporations. Knowing that the proceeds of the larger future issue will cover the anticipation notes, the issuing bodies use the notes as short-term financing.

**canvass**

Refers to the activities related to conducting a survey which a governing body completes before elections, the results of which are official.

**codify**

In the law and in the legal fields, codify is the process of collecting and restating the law of a jurisdiction in certain areas, usually by subject.

**combination department**

Department with both paid and non-paid members

**DSHS**



Texas Department of State Health Services

**DOJ**

United States Department of Justice, to be notified for pre-clearance of ESD elections

**election date**

The second Saturday in May or the first Tuesday after the first Monday in November.

**emolument**

Pay or some other benefit, compensation or thing of value received in exchange for the person's service as an officer.

**ESD**

Emergency Services District; A political subdivision of government with taxing authority to provide emergency services to a defined district.

**ETJ**

Extraterritorial jurisdiction is an area adjoining city limits of a municipality with distance defined by law.

**FEMA**

Federal Emergency Management Agency.

**FEPP**

Federal Excess Personal Property

**GAAP**

Generally Accepted Accounting Principles

**GASB**

Government Accounting Standards Board

**GETAC**

Governor's EMS and Trauma Advisory Council

**IAFC**

International Association of Fire Chiefs

**ISO**

Insurance Service Organization sets classes of fire risk for use in setting cost of home owner fire insurance, generally lower class equals lower cost.

**Mutual Aid Agreement**

An agreement between emergency departments agreeing to be dispatched to assist other emergency departments when requested by first responding department.

**NFA**

National Fire Academy

**NIMS**

National Incident Management System; Offers training for unified approach to incident management. Also see TEXTFIRS listed below.

**NFPA**

National Fire Protection Association; Sets the standard for fire protection.

**OAG**

Office of Attorney General; Training resource for open government, freedom of information, etc.

**RC&D**

Resource Conservation and Development is a 501(c)(3) nonprofit organization that has a coordinator provided by Natural Resource Conservation Service. Natural Resource Conservation Service is a division of United States Department of Agriculture. - The purpose of RC&D is to promote conservation, development, and utilization of natural resources; to improve the general level of economic activity; and to enhance the environmental and standard of living in all communities. The aim is to provide a system of rural development, encourage the wise use of natural resources, and improve the quality of life in America.

**RFPD**

Rural Fire Protection Districts were allowed by the Texas Constitution Article III Section 48-e until amended November 2, 1999. The amendment allowed the conversion of all RFPDs to ESDs.

**Robert's Rules of Order**

Rules of order, also known as standing orders or rules of procedure, are the written rules of parliamentary procedure adopted by a deliberative assembly, which detail the processes used by the body to make decisions. Some bodies rely more on precedent and on the judgment of the presiding officer, whereas others rely more heavily on the written rules.

**SAFE-D**

State Association of Fire and Emergency Districts with membership open all Emergency Service Districts in Texas.

**SFFMA**

State Firemen's and Fire Marshal's Association is a trade association of firefighters and fire departments which encourages training, education, and certification for all volunteers.

**TDRA**

Texas Department of Rural Affairs

**TFS**

Texas Forest Service

**Tax cap**

Maximum tax limit set by the voters in an election. The cap for an emergency services district cannot exceed \$0.10 per \$100 of property value as set by the Texas Constitution.

**Tax rate**

Annual rate for taxes to be assessed as set by the ESD commissioners. The ESD must follow Truth in Taxation laws when setting the annual rate. The tax rate may never exceed the tax cap.

**TEEX**

Texas Engineering Extension Service

**TEXFIRS**

Texas Fire Incident Reporting System maintained by the State Fire Marshal's Office for reporting data from fire departments.

**USFA**

United States Fire Administration, division of US Homeland Security.

**VFD**

Volunteer Fire Department

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This bill was signed by the governor on June 17, 2011 and effective immediately

S.B. No. 917

AN ACT

relating to emergency service districts.

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

SECTION 1. Section 775.018, Health and Safety Code, is amended by adding Subsections (f) and (g) to read as follows:

(f) If the territory of a district proposed under this chapter overlaps with the boundaries of another district created under this chapter, the commissioners court of each county in which the proposed district is located shall send to the board of the existing district a copy of the petition for creation of the proposed district. This subsection does not apply to a proposed district located wholly in a county with a population of more than three million.

(g) The board of the existing district shall adopt a statement before the date of the election required by this section that specifies the types of emergency services the existing district will provide or continue to provide in the overlapping territory if the proposed district is created. This subsection does not apply to a proposed district located wholly in a county with a population of more than three million.

SECTION 2. Section 775.0205, Health and Safety Code, is amended by amending Subsection (a) and adding Subsections (d-1), (d-2), and (d-3) to read as follows:

(a) If the territory in a district created under this chapter overlaps with the boundaries of another district created under this chapter [~~or a district created under Chapter 776~~], the most recently created district may not provide services in the overlapping territory that duplicate the services described in the statement required by Section 775.018(g) [~~provided by the other district at the time the overlapping district was created~~].

(d-1) The legislature finds that the performance of non-duplicative emergency services in the overlapping territory of emergency service districts is complementary to and not in conflict with the powers and duties of the respective districts.

(d-2) A person may serve as an emergency services commissioner of a district created under this chapter at the same time that the person serves as an emergency services commissioner of another district with overlapping territory created under this chapter.

(d-3) A person serving as a commissioner of more than one district under this section:

(1) may receive compensation for serving on only one board; and

(2) is entitled to reimbursement for reasonable and necessary expenses incurred in performing official duties for both boards.

SECTION 3. Section 775.024, Health and Safety Code, is amended to read as follows:

Sec. 775.024. CONSOLIDATION [~~MERGER~~] OF EMERGENCY SERVICES DISTRICTS. (a) Two or more emergency services districts may consolidate [~~merge~~]

into a single emergency services district as provided by this section. Before consolidating, ~~[if:~~

~~[(1)]~~ the board of each district must:

(1) determine that consolidation would allow the districts to provide services more economically and efficiently ~~[of the districts votes in favor of the merger];~~  
and

(2) adopt a joint order of consolidation that includes:

(A) the name and proposed territory of the consolidated district;

(B) the proposed date on which the existing districts dissolve and the consolidated district is created and will start offering services;

(C) if the maximum ad valorem tax rates in the districts are different, a statement that the districts will consolidate only if voters approve an equalized ad valorem tax rate at the election required by Section 775.0241; and

(D) a statement that the district will be consolidated only if the residents of the district and the residents of at least one other district approve the consolidation ~~[the residents of each district approve the merger]~~ in an election held for that purpose.

(b) The boards shall agree on a name for the proposed consolidated ~~[merged]~~ district and choose five commissioners from among the membership of the boards to serve on the initial board for the proposed district. The boards shall agree to stagger the terms appropriately.

(c) If the boards do not make the appointments before the 31st day after the date the boards adopted the joint order:

(1) for a consolidated district to which Section 775.0345 or 775.035 does not apply, the commissioners court shall appoint five commissioners to the board of the consolidated district; or

(2) for a consolidated district to which Section 775.0345 or 775.035 does apply, the board of the consolidated district is initially composed of the two commissioners from each existing board who have served the longest terms.

(c-1) The number of initial emergency services commissioners on a board described by Subsection (c)(2) is not required to be five.

(d) The ballot for the election to approve a consolidation [~~merger~~] shall be printed to permit voting for or against the proposition: "The consolidation [~~merger~~] of the \_\_\_\_\_ (insert district names) to create the \_\_\_\_\_ (insert name of proposed district), which assumes all outstanding debts of the existing [~~merged~~] districts." The ballot shall include a proposition for an election required under Section 775.0241, if applicable.

(e) [~~(d)~~] If a majority of the voters voting in at least two of the districts proposed to be consolidated [~~each district~~] favor the consolidation [~~merger~~], the consolidated [~~merged~~] district is created and is composed of the districts that favored the consolidation. If less than a majority of the voters voting in any of the districts are in favor of the consolidation [~~merger~~], that district is not part of any consolidated district [~~the vote fails and the districts are not merged~~].

(f) The consolidated district is created on the latest of:

(1) the date stated in the joint order;

(2) the date the consolidation is approved in an election described by Subsection (d); or

(3) the date the maximum ad valorem tax rate the consolidated district may impose under Section 775.0241 is established, if necessary.

~~(g) [(e) The maximum tax rate that may be imposed by the merged district may not exceed the maximum tax rate authorized for any of the previous districts.~~

~~(f)~~ The consolidated ~~[merged]~~ district assumes all powers, rights, duties, assets, and liabilities of the former districts without a change in status. The consolidation ~~[merger]~~ does not diminish or impair the rights of the holders of any outstanding and unpaid bonds, warrants, or obligations of the district.

(h) For a consolidated district to which Section 775.0345 or 775.035 applies, the initial commissioners of the consolidated district serve until the next available uniform election date after the date the joint order is adopted and that allows sufficient time to comply with other requirements of law. After an election is held under Section 775.0345 or 775.035:

(1) the two commissioners who receive the fewest votes of the elected commissioners serve terms ending on December 31 of the second year following the year in which the election is held; and

(2) the remaining elected commissioners serve terms ending on December 31 of the fourth year following the year in which the election is held.

SECTION 4. Subchapter B, Chapter 775, Health and Safety Code, is amended by adding Section 775.0241 to read as follows:



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Sec. 775.0241. TAXES FOR CONSOLIDATED DISTRICT. (a) If two districts that want to consolidate under Section 775.024 have different maximum ad valorem tax rates, the board of the district with the lower maximum ad valorem tax rate shall order an election in its district under Section 775.0745 to authorize the imposition of taxes in the territory of that district at a maximum rate that equals the maximum rate authorized in the district with the higher maximum rate.

(b) If a majority of the voters do not favor the increase in the maximum ad valorem tax rate under Subsection (a), the districts may not proceed with the consolidation.

(c) If the districts have different sales and use tax rates, the board of the consolidated district shall:

(1) designate the territory of the former districts as subdistricts;

(2) continue to impose the sales and use tax in each subdistrict at the rate the tax was imposed by the former district; and

(3) send to the comptroller by registered or certified mail:

(A) a copy of the joint order described by Section 775.024(a)(2);

and

(B) a map of the consolidated district that clearly shows the territory of each subdistrict.

(d) Subsection (c) does not limit the authority of the board of the consolidated district to order an election under Section 775.0752 in a subdistrict or in the entire district.

SECTION 5. Subchapter C, Chapter 775, Health and Safety Code, is amended by adding Sections 775.0362 and 775.0363 to read as follows:

Sec. 775.0362. LIMIT ON REGULATION OF FIREWORKS. Except as provided by Section 775.0363, the district may not regulate the sale, use, or transportation of fireworks.

Sec. 775.0363. REGULATION OF FIREWORKS. The district may adopt a rule relating to fireworks that is the same as or less stringent than a rule adopted or enforced by the commissioner of insurance and the state fire marshal under Chapter 2154, Occupations Code, relating to retail fireworks stands, fireworks bulk manufacturing and storage facilities, fireworks sales buildings, or any other structure used in public pyrotechnic displays to which the rules adopted under Chapter 2154, Occupations Code, apply.

SECTION 6. Subchapter C, Chapter 775, Health and Safety Code, is amended by adding Sections 775.0365 and 775.0366 to read as follows:

Sec. 775.0365. BOARD TRAINING. (a) An emergency services commissioner shall 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) Continuing education instruction required by Subsection (a) must be certified by an institution of higher education as defined by Section 61.003, Education Code.

(c) For purposes of Subsection (a), an emergency services commissioner may 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.

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(d) 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).

Sec. 775.0366. SERVICE CONTRACTS. (a) In this section, "local government" has the meaning assigned by Section 791.003, Government Code.

(b) The board may contract with a local government, including another district, to provide staff, facilities, equipment, programs, or services the board considers necessary to provide or obtain emergency services that the district or the local government is authorized to provide.

(c) A person acting under a contract under this section, including an emergency services commissioner, does not, because of that action, hold more than one civil office of emolument or more than one office of honor, trust, or profit.

(d) Except as provided by Subsection (e), if a district contracts with a local government under this section to provide or obtain emergency services, the district is responsible for any civil liability that arises from furnishing those services if the district would have been responsible for furnishing the services in the absence of the contract.

(e) The parties to a contract between governmental entities under this section may agree to assign responsibility for civil liability that arises from services provided under the contract in any manner agreed to by the parties. The parties must assign that responsibility in a written provision of the contract that specifically refers to this subsection and states that the assignment of liability is intended to be different from liability otherwise assigned under Subsection (d).

(f) This section does not change the liability limits and immunities for a governmental unit under Chapter 101, Civil Practice and Remedies Code, or other law.

(g) A contract under this section is not a joint enterprise for liability purposes.

SECTION 7. The heading to Section 775.0422, Health and Safety Code, is amended to read as follows:

Sec. 775.0422. REMOVAL OF APPOINTED BOARD MEMBER BY COMMISSIONERS COURT [~~FOR FAILURE TO GIVE REPORT~~].

SECTION 8. Section 775.0422, Health and Safety Code, is amended by amending Subsections (a), (b), and (c) and adding Subsections (a-1) and (b-1) to read as follows:

(a) 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.

(a-1) This section applies only to an appointed board member. This section does not apply to a board member who:

- (1) is elected; or
- (2) is appointed to fill a vacancy in an elected board member position.

(b) The commissioners court of the county in which a district is located, by an order adopted by a majority vote after a hearing, may remove a [one or more] board member for:

(1) incompetency, as defined by Section 87.011, Local Government Code;

(2) official misconduct, as defined by Section 87.011, Local Government Code; or

(3) misconduct, as defined by Section 178.001, Local Government Code  
~~[members if the board failed to give the report required by Section 775.036(a)(4) to the~~  
~~commissioners court before the 91st day after the date on which the report was due under~~  
~~that section].~~

(b-1) 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.

(c) Not later than ~~[Before]~~ the 30th [60th] day before [after] the date on which the  
hearing is held, a [report was due, each] commissioners court seeking removal under this  
section must:

(1) notify the board members that it is considering that action; and

(2) provide the board member with an opportunity to show cause why the  
board member should not be removed.

SECTION 9. Subchapter C, Chapter 775, Health and Safety Code, is amended by  
adding Section 775.0423 to read as follows:

Sec. 775.0423. REMOVAL OF ELECTED BOARD MEMBER. (a) This  
section applies only to a board member who:

(1) is elected; or

(2) is appointed to fill a vacancy in an elected board member position.

(b) A board member may be removed using the procedures provided by Chapter  
87, Local Government Code, for:

(1) incompetency, as defined by Section 87.011, Local Government  
Code;

(2) official misconduct, as defined by Section 87.011, Local Government Code;

(3) intoxication, as described by Section 87.013, Local Government Code; or

(4) misconduct, as defined by Section 178.001, Local Government Code.

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

SECTION 10. Subsection (a), Section 775.056, Health and Safety Code, is amended to read as follows:

(a) After a hearing, a district may make mutually agreeable changes in boundaries with another district, [~~or a district created under Chapter 776,~~] provided that the maximum tax rate authorized for such a district does not exceed the maximum tax rate previously authorized for any territory added to that district. The districts shall agree on an effective date for the changes in boundaries.

SECTION 11. Section 775.074, Health and Safety Code, is amended by adding Subsection (d-1) to read as follows:

(d-1) The board may not set the tax rate for a fiscal year before the date the board adopts a budget for that fiscal year.

SECTION 12. Section 775.082, Health and Safety Code, is amended by adding Subsection (e-1) to read as follows:

(e-1) 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

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the report, the president and treasurer of the board are removed from the board and the commissioners court shall fill the vacancies as provided by Section 775.034.

SECTION 13. Section 775.085, Health and Safety Code, is amended by adding Subsection (d) to read as follows:

(d) Section 775.077 does not apply to a loan secured under this section, including a loan made before the effective date of this subsection.

SECTION 14. Subsection (c), Section 344.051, Local Government Code, is amended to read as follows:

(c) Except as provided by Subsection (f), a district may be created inside the boundaries of an emergency services district operating under Chapter 775 [~~or 776~~], Health and Safety Code, only if the governing body of the emergency services district gives its written consent by order or resolution not later than the 60th day after the date the governing body receives a request for its consent.

SECTION 15. Subsection (f), Section 323.101, Tax Code, is amended to read as follows:

(f) The provisions of this chapter govern the application, collection, and administration of a sales and use tax imposed under Chapter 285 or 775, [~~or 776~~], Health and Safety Code, to the extent not inconsistent with the provisions of those chapters. Provided, however, that Subsection (b) shall not apply to a tax authorized under those chapters.

SECTION 16. Chapter 776, Health and Safety Code, is repealed.

SECTION 17. (a) On the effective date of this Act, a district created under Chapter 776, Health and Safety Code, is converted into a district operated under Chapter

775, Health and Safety Code. A district converted under this section continues in existence and is subject to Chapter 775, Health and Safety Code.

(b) An emergency commissioner of a district created under Chapter 776, Health and Safety Code, is an emergency services commissioner of the converted district under Chapter 775, Health and Safety Code, and shall serve on the board of the converted district as an emergency services commissioner until the term for which the commissioner was appointed or elected expires.

SECTION 18. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2011.



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President of the Senate

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Speaker of the House

I hereby certify that S.B. No. 917 passed the Senate on April 14, 2011, by the following vote: Yeas 30, Nays 0; and that the Senate concurred in House amendment on May 25, 2011, by the following vote: Yeas 31, Nays 0.

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Secretary of the Senate

I hereby certify that S.B. No. 917 passed the House, with amendment, on May 23, 2011, by the following vote: Yeas 142, Nays 0, one present not voting.

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Chief Clerk of the House

Approved:

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Date

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Governor