



The Senate of  
The State of Texas

IO # 16233  
MBS

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STATE SENATOR DISTRICT 14 HAYS & TRAVIS COUNTIES

RQ-392

May 11, 1992

RECEIVED  
JUN 1 1992  
Opinion Committee

Honorable Dan Morales  
Attorney General of Texas  
Opinions Committee  
P. O. Box 12548  
Austin, Texas 78711-2548

Re: Request for Attorney General's Opinion

Dear General Morales:

I would like to respectfully request an opinion of your office with regard to the issue of clarifying details on a piece of legislation passed by the 72nd Legislature. The legislation amends the previous statute relating to Emergency Services Districts, specifically as it applies to the conversion process.

An Emergency Services District is authorized to provide a greater range of emergency services and is authorized to levy a tax not to exceed \$.10 per \$100 valuation to fund its operations. A rural fire prevention district is limited to a maximum tax rate of \$.03. A conversion enables the District to provide additional services and to enable the District to fund the increased costs of its services. The situation requiring clarification is set forth below.

1. If a rural fire prevention district is to be converted to an emergency services district pursuant to Section TEX. HEALTH & SAFETY CODE ANN. Sec. 775.056 (Vernon 1992 Pamphlet) [all section references are to TEX. HEALTH & SAFETY CODE ANN. (Vernon 1992 Pamphlet) unless otherwise indicated], is the conversion a conversion of the rural fire prevention district as a whole ("all or none" basis) or do the provisions of Section 775.019(b) apply to a conversion?

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2. If your answer to question No. 1 is that a district is converted on the all or none basis, what procedures set forth in Chapter 775 must be followed to convert a rural fire prevention district to an emergency services district?

3. If your answer to question No. 1 is that a district is converted on the all or none basis, and an election was held within the district that passed within the district as a whole but did not pass within the limits of a municipality and the commissioners court passed an order canvassing the election and declaring the emergency services district created except for the territory within the municipality [pursuant to Section 775.019(b)], may the commissioners court revise its order to include within the converted district the territory that is located within the municipality?

4. If your answer to question No. 1 is that a district is not converted on the all or none basis, for the purposes of Section 775.019(b), should the extraterritorial jurisdiction and the corporate limits of a municipality be considered separately or as a unit?

5. Must the notice of election required by Section 775.018(d) include the information set forth in Section 775.015, or is the notice sufficient if it complies with TEX. ELEC. CODE ANN. Sec. 4.004 (Vernon 1986)

6. For purposes of Section 775.014(f), what event in the creation process must occur prior to the expiration of six months?

7. For the expansion of district territory under Section 775.051:

(a) Who is responsible for calling the election?

(b) Who is responsible for posting and publishing notice of the election?

(c) Who is responsible for conducting the election?

(d) Do Sections 775.017(b) and 775.019(b) apply to an annexation?

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(e) For the purposes of the ballot language set forth in Section 775.051(g), must the description include a metes and bounds description or may the description refer to the boundaries (for instance, the corporate limits or extraterritorial jurisdiction of a municipality) of an existing political subdivision?

(f) May two separate, noncontiguous areas, one of which has no residents, be combined as one defined territory for purposes of an annexation?

8. Two tax rates will be set within the same area. Will the two areas receive different levels of service?

9. Will remaining portions of the fire district want to join another fire district? To do so will require joint elections in the established fire district and in the areas that want to join the established district. Both areas must approve the consolidation. When will such an election be held? Will areas remain unprotected during the interim?

10. How will the assets (fire trucks, equipment, buildings) be divided between the ESD and the fire district?

11. Two sets of commissioners (some for the fire district and one for the ESD) will need to be appointed. To find qualified, interested people who are willing to serve as commissioners is difficult at best.

Given the nature of this situation and the time constraints involved, your expedition of this matter is respectfully requested.

Sincerely,

A handwritten signature in cursive script that reads "Gonzalo Barrientos". The signature is written in black ink and is positioned to the right of the word "Sincerely,".

Gonzalo Barrientos  
State Senator