

## **BILL ANALYSIS**

H.B. 2045  
By: Puente  
Natural Resources  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

The 78th Texas Legislature, enacted H.B. 1309, sponsored by Rep. Jim Pitts, which removed an unintended contradiction in the laws governing non-profit water supply and sewer service corporations. (Acts 2003, 78th Leg., Chapter 534, Section 1, eff. June 30, 2003.) These corporations are created under the specific provisions of Chapter 67, Texas Water Code (formerly, Article 1434a, Rev. Tex. Civ. Stat.). However, the statutory scheme of Chapter 67 does not include a complete body of law for the governance of these corporations. Accordingly, Section 67.004, Water Code, expressly provides that the provisions of the Texas Non-Profit Corporation Act apply to these corporations unless there is a conflict (in which case the provisions of Chapter 67 control). The incorporation, by reference, of the provisions of the Texas Non-Profit Corporation Act is necessary in order to provide for the creation, organization, and dissolution of these corporations. However, the Texas Non-Profit Corporation Act, prior to the passage of H.B. 1309, provided that the Act did not apply to any nonprofit corporation providing water supply or sewer service. **See** Article 1396-2.01(B)(5) (repealed).

By separate act, the 78th Texas Legislature also codified the statutory schemes governing all Texas business organizations, including non-profit corporations, without substantive change. (Acts 2003, 78th Leg., ch. 182, Section 1, eff. January 1, 2006.) The result is that the provision of the Texas Non-Profit Corporation Act (Article 1396-2.01(B)(5)) which was repealed by H.B. 1309 was reinstated by enactment of the Business Organizations Code. (**See** Section 2.010 (2), Business Organizations Code.)

This bill effects the intent of the 78th Texas Legislature in repealing Article 1396-2.01(B)(5) of the Texas Non-Profit Corporation Act.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

SECTION 1. Resolves any unintended contradiction in the law by deleting the language in the Business Organizations Act which states the Act does not apply to nonprofit water supply and sewer service corporations. With this language removed, the coordination of the two statutes will be governed unambiguously by Section 67.004 of the Texas Water Code.

SECTION 2. Provides the effective date.

### **EFFECTIVE DATE**

January 1, 2006.