

BILL ANALYSIS

Senate Research Center
79R3635 QS-F

H.B. 3527
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Natural Resources
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Engrossed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

The Ponderosa and Western Village Water Supply Corporation (Ponderosa) is located in the unincorporated northwest area of the County of El Paso's regional water and wastewater plan. The Ponderosa water distribution system lies within a low density, economically depressed area that is approximately .5 square miles. Half of the water system was reconstructed five years ago. Construction and design costs to rebuild the rest of the system range from \$500,000 to \$744,000. El Paso Water Utilities is currently working with the County of El Paso to obtain an additional \$105,000 in Texas Community Development Program funds to continue the reconstruction of the system. It should be noted that, historically, Ponderosa has lacked the capacity to manage its business affairs. Today, only two of the seven board members allowed by charter are in office. By the end of this month, the last two board members will resign. There is no willingness or interest to continue as a water supply corporation among the membership. Ponderosa representatives met with El Paso Water Utilities and requested the transfer of its private non-profit water supply to El Paso Water Utilities.

H.B. 3527 allows for the dissolution of the Ponderosa and Western Village Water Supply Corporation to promote a more efficient, effective, and cheaper method of providing water in the County of El Paso. El Paso Water Utilities has the capacity to administer the grant needed to rehabilitate the water system. Further, El Paso Water Utilities has the ability to operate and maintain the Ponderosa and Western Village Water Supply Corporation with minimal impact to El Paso Water Utilities.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Designates Sections 67.001-67.017, Chapter 67, Water Code, as Subchapter A, Chapter 67, Water Code, and adds a subchapter heading to read as follows:

SUBCHAPTER A. GENERAL PROVISIONS

SECTION 2. Amends Chapter 67, Water Code, by adding Subchapter B, as follows:

SUBCHAPTER B. DISSOLUTION

Sec. 67.051. DEFINITION. Defines "executive director."

Sec. 67.052. APPLICABILITY OF SUBCHAPTER. Provides that this subchapter applies only to a corporation and municipality located in a county with a population of 650,000 or more and adjacent to an international border.

Sec. 67.053. TRANSFER OF ASSETS AND LIABILITIES; REQUEST FOR DISSOLUTION ORDER. (a) Authorizes a board of directors (board) of a nonprofit water supply or sewer service corporation (corporation) to transfer the corporation's assets and liabilities to a municipality, in accordance with their written request for the municipality to take over the management of the corporation's water supply system.

(b) Requires the board, on favorable action of the municipality, to notify the executive director of the Texas Commission on Environmental Quality (executive director) and request an order of dissolution.

(c) Requires the board to provide the executive director with any information or documentation requested in order to monitor the corporation's progress toward the complete transfer of its assets and liabilities to the municipality.

Sec. 67.054. ORDER OF DISSOLUTION; TRANSFER OF ASSETS AND LIABILITIES. (a) Requires the executive director, on receipt of the notice and request from the corporation, to investigate to verify whether the parties have met all the necessary conditions for the transfer.

(b) Requires the executive director to issue an order of dissolution upon making specific determinations after the investigation.

(c) Sets forth requirements of the executive director in issuing an order of dissolution under Subsection (b).

(d) Provides that the consideration and adoption of an order of dissolution under this section is not a contested case under Chapter 2001 (Administrative Procedure), Government Code.

(e) Provides that the order of dissolution issued under this section is wholly sufficient and effective to accomplish the dissolution of the corporation and the transfer of its assets and liabilities to the municipality.

(f) Requires the executive director to file a certified copy of the order of dissolution issued under this section together with a certified copy of the resolution of the governing body of the municipality accepting the transfer with the secretary of state and in the deed records of the county in which the corporation and municipality are located.

Sec. 67.055. COLLECTION OF MONEY OWED THE CORPORATION. Authorizes the municipality, on or after the date the dissolution order is issued under Section 67.054, to collect all money owed the corporation on the date the order is issued, including taxes, fees, or charges imposed by the corporation under Section 67.054 and the corporations' account receivables.

Sec. 67.056. RATES FOR SERVICE. (a) Authorizes the municipality to charge county residents living in the service area formerly served by the corporation water supply rates that exceed the rates paid by residents of the municipality that are water supply customers, if the higher rates are necessary or appropriate to fully cover the cost of service to the area, as determined by the municipality.

(b) Authorizes the water supply rates the municipality charges county residents living in the service area formerly served by the corporation to include an amount necessary to recover certain costs and services.

(c) Provides that Section 16.349 (Fees) does not affect the amount of the fee charged under this section.

SECTION 3. (a) Provides that this section applies only to a water supply or sewer service corporation located in a county with a population of 650,000 or more and adjacent to an international border.

(b) Provides that all acts, resolutions, orders, instruments, obligations, and proceedings of the body serving as the board of a water supply or sewer service corporation before the effective date of this Act are in all respects validated, ratified, approved, and confirmed as of the date they were taken, adopted, authorized, issued, entered into, or delivered, and

requires them to be treated as though they had originally been authorized and accomplished in accordance with law.

(c) Authorizes an act, resolution, order, instrument, obligation, or proceeding to be held invalid if the body serving as the board of a water supply or sewer service corporation acted with knowledge that the action was illegal.

(d) Provides that this section does not apply to any matter that on the effective date of this Act is involved in litigation, if in the course of the litigation, the matter is held invalid by a final judgment of a court of competent jurisdiction, or has been held invalid by a final judgment of a court of competent jurisdiction.

SECTION 4. Effective date: upon passage or September 1, 2005.