

AN ACT

relating to the jurisdiction of the Texas Commission on Environmental Quality over certain water supply or sewer service corporations and the creation of the La Joya Special Utility District.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

ARTICLE 1. AMENDMENT TO CHAPTER 13, WATER CODE

SECTION 1.01. Subchapter A, Chapter 13, Water Code, is amended by adding Section 13.004 to read as follows:

Sec. 13.004. JURISDICTION OF COMMISSION OVER CERTAIN WATER SUPPLY OR SEWER SERVICE CORPORATIONS. (a) Notwithstanding any other law, the commission has the same jurisdiction over a water supply or sewer service corporation that the commission has under this chapter over a water and sewer utility if the commission finds that the water supply or sewer service corporation:

(1) is failing to conduct annual or special meetings in compliance with Section 67.007; or

(2) is operating in a manner that does not comply with the requirements for classifications as a nonprofit water supply or sewer service corporation prescribed by Sections 13.002(11) and (24).

(b) If the water supply or sewer service corporation voluntarily converts to a special utility district operating under Chapter 65, the commission's jurisdiction provided by this section

1 ends.

2 ARTICLE 2. AMENDMENT TO SUBTITLE C, TITLE 6,

3 SPECIAL DISTRICT LOCAL LAWS CODE

4 SECTION 2.01. Subtitle C, Title 6, Special District Local
5 Laws Code, is amended by adding Chapter 7201 to read as follows:

6 CHAPTER 7201. LA JOYA

7 SPECIAL UTILITY DISTRICT

8 SUBCHAPTER A. GENERAL PROVISIONS

9 Sec. 7201.001. DEFINITIONS. Unless the context otherwise
10 requires, in this chapter:

11 (1) "Board" means the board of directors of the
12 district.

13 (2) "Corporation" means the La Joya Water Supply
14 Corporation.

15 (3) "District" means the La Joya Special Utility
16 District.

17 Sec. 7201.002. NATURE OF CORPORATION AND DISTRICT. (a) The
18 corporation is a water supply corporation in Hidalgo and Starr
19 Counties created under and essential to accomplish the purposes of
20 Section 59, Article XVI, Texas Constitution, and operating in
21 accordance with Chapter 67, Water Code.

22 (b) The district is:

23 (1) a special utility district in Hidalgo and Starr
24 Counties created under and essential to accomplish the purposes of
25 Section 59, Article XVI, Texas Constitution, and operating in
26 accordance with Chapters 49 and 65, Water Code;

27 (2) a retail public utility as defined by Section

1 13.002, Water Code; and

2 (3) the successor in interest to the corporation.

3 (c) On the effective date of the Act enacting this chapter,
4 the corporation shall be dissolved and succeeded without
5 interruption by the district.

6 Sec. 7201.003. APPLICABILITY OF OTHER LAW. Except as
7 otherwise provided by this chapter, Chapters 49 and 65, Water Code,
8 including Sections 49.211(a) and 65.201(a), Water Code, apply to
9 the district.

10 Sec. 7201.004. REGULATORY CONFLICTS. (a) If a
11 municipality asserts regulatory authority over any geographic area
12 in the district and a municipal regulation applicable to that
13 geographic area conflicts with a rule of the district, the
14 regulation of the municipality prevails.

15 (b) This section does not apply to:

16 (1) rules or regulations concerning potable water
17 quality standards; or

18 (2) conflicts relating to service areas or
19 certificates issued to the corporation or district by the Texas
20 Commission on Environmental Quality.

21 Sec. 7201.005. INITIAL DISTRICT TERRITORY. (a) The
22 boundaries of the corporation and initial boundaries of the
23 district are coextensive with the service areas covered by
24 Certificates of Convenience and Necessity Nos. 10559 and 20785, as
25 recorded on the Texas Commission on Environmental Quality maps
26 associated with those certificates. Those maps are incorporated in
27 this section by reference.

1 (b) A mistake made in the preparation, copying, or filing of
2 the maps described by Subsection (a) and on file with the Texas
3 Commission on Environmental Quality does not affect:

4 (1) the organization, existence, or validity of the
5 district;

6 (2) the right of the district to issue bonds; or

7 (3) the legality or operation of the district.

8 (c) District boundaries may be modified in accordance with
9 Chapters 13 and 49, Water Code, except that the boundaries must
10 include all territory in any area included under a certificate of
11 convenience and necessity issued by the Texas Commission on
12 Environmental Quality to the district.

13 [Sections 7201.006-7201.020 reserved for expansion]

14 SUBCHAPTER A1. TEMPORARY PROVISIONS

15 Sec. 7201.021. TRANSFER OF ASSETS; DISSOLUTION. (a) On the
16 effective date of the Act enacting this chapter, the corporation
17 shall transfer the assets, debts, and contractual rights and
18 obligations of the corporation to the district and provide notices
19 and make recordings of the transfer required by the Water Code and
20 general law.

21 (b) Not later than the 30th day after the date of the
22 transfer under Subsection (a), the board of directors of the
23 corporation shall commence dissolution proceedings of the
24 corporation.

25 (c) On dissolution of the corporation, Certificates of
26 Convenience and Necessity Nos. 10559 and 20785 are considered to be
27 held by the district.

1 (d) The board of directors of the corporation shall notify
2 the Texas Commission on Environmental Quality of the dissolution of
3 the corporation and the creation of the district to replace it to
4 effect the transfer of Certificates of Convenience and Necessity
5 Nos. 10559 and 20785 to the district.

6 (e) On receipt of notice under Subsection (d), the Texas
7 Commission on Environmental Quality shall note in its records that
8 Certificates of Convenience and Necessity Nos. 10559 and 20785 are
9 held by the district. The Texas Commission on Environmental
10 Quality shall, as a ministerial act, transfer the certificates to
11 the district without further application, notice, or hearing. A
12 person, party, or entity does not have any right of protest,
13 objection, or administrative review of the transfer prescribed by
14 this section.

15 Sec. 7201.022. EXPIRATION OF SUBCHAPTER. This subchapter
16 expires September 1, 2008.

17 [Sections 7201.023-7201.050 reserved for expansion]

18 SUBCHAPTER B. BOARD OF DIRECTORS

19 Sec. 7201.051. TEMPORARY DIRECTORS. (a) The directors of
20 the corporation who hold office on the effective date of the Act
21 enacting this chapter shall serve as the temporary directors of the
22 district until successor directors are elected and qualify for
23 office.

24 (b) The temporary directors of the district are assigned
25 position numbers as follows:

26 (1) Position 1, Jose Luis Trigo;

27 (2) Position 2, Jose Guadalupe Reyna;

- 1 (3) Position 3, George Barreiro;
- 2 (4) Position 4, Frolian Ramirez;
- 3 (5) Position 5, Russell Wicker;
- 4 (6) Position 6, Benito Salinas;
- 5 (7) Position 7, Manuel Ricardo Garcia;
- 6 (8) Position 8, Valente Alaniz, Jr.; and
- 7 (9) Position 9, Juan Lino Garza.

8 (c) If there is a vacancy on the temporary board of
9 directors of the district, the temporary board shall appoint a
10 person to fill the vacancy for the remainder of the term for the
11 vacated position until the applicable election under Section
12 7201.052.

13 Sec. 7201.052. BOARD OF DIRECTORS. (a) The district shall
14 be governed by a board of not fewer than nine and not more than 11
15 directors, elected in accordance with Section 49.103, Water Code,
16 notwithstanding Subsection (f)(2) of that section.

17 (b) Except for a temporary director under Section 7201.051,
18 a candidate for a position as director:

19 (1) is elected at large to represent the entire
20 service area of the district;

21 (2) must reside in the service area of the district;
22 and

23 (3) must be eligible to hold office under Section
24 141.001, Election Code.

25 (c) It is the policy of the district that the directors
26 shall represent and reside in as broad a cross-section of the
27 geographic area of the district as possible.

1 (d) The district shall fill a vacancy on the board in
2 accordance with Section 49.105, Water Code.

3 (e) Except for the temporary directors listed under Section
4 7201.051, directors serve staggered terms of three years.

5 (f) On the uniform election date in May 2006, and on that
6 uniform election date every third year after that date, the
7 district shall hold an election to elect three directors to serve in
8 positions 1, 4, and 7.

9 (g) On the uniform election date in May 2007, and on that
10 uniform election date every third year after that date, the
11 district shall hold an election to elect three directors to serve in
12 positions 2, 3, and 5.

13 (h) On the uniform election date in May 2008, and on that
14 uniform election date every third year after that date, the
15 district shall hold an election to elect three directors to serve in
16 positions 6, 8, and 9.

17 [Sections 7201.053-7201.100 reserved for expansion]

18 SUBCHAPTER C. POWERS AND DUTIES

19 Sec. 7201.101. GENERAL POWERS AND DUTIES. Except as
20 otherwise provided by this chapter, the district has all of the
21 rights, powers, privileges, authority, functions, and duties
22 provided by the general law of this state, including Chapters 49 and
23 65, Water Code, applicable to districts created under Section 59,
24 Article XVI, Texas Constitution.

25 Sec. 7201.102. PROVISION OF SERVICE. The district shall at
26 all times operate and construct necessary improvements within the
27 certificated areas established by the commission to provide

1 uninterrupted, continuous, and adequate service to existing and
2 future customers for water, sewer, and contract services.

3 Sec. 7201.103. INTERLOCAL CONTRACTS. In accordance with
4 Chapter 791, Government Code, the district and the Rio Grande
5 Regional Water Authority may enter into a contract under which the
6 Rio Grande Regional Water Authority may provide administrative or
7 any other contract activities for or with the district. The
8 district may enter into interlocal cooperation contracts with any
9 public or private entity, request any necessary regulatory approval
10 required, and charge fees and rates adequate to generate revenue
11 sufficient to cover all expenses of the district based on
12 cost-of-service principles. For purposes of Chapter 791,
13 Government Code, performance under a contract is a governmental
14 function or service.

15 [Sections 7201.104-7201.200 reserved for expansion]

16 SUBCHAPTER D. OPERATING PROVISIONS

17 Sec. 7201.201. AUDIT OF DISTRICT. (a) Subchapter G,
18 Chapter 49, Water Code, applies to the district.

19 (b) An individual licensed by the state as a certified
20 public accountant with not less than five years of government
21 accounting experience shall perform the audit required by Section
22 49.191, Water Code.

23 Sec. 7201.202. RECORDS OF DISTRICT. The district shall
24 comply with all rules and regulations pertaining to records
25 preservation, retention, and destruction promulgated by the Texas
26 State Library and Archives Commission under Chapter 441, Government
27 Code, as made applicable to water districts and utilities.

1 Sec. 7201.203. MAINTAINING NECESSARY RECORDS. The district
2 shall maintain necessary records and follow cost-of-service
3 principles with respect to provision of retail public water or
4 sewer service or any other service authorized by Chapter 49 or 65,
5 Water Code, or an interlocal contract entered into in accordance
6 with Chapter 791, Government Code.

7 Sec. 7201.204. NEWSLETTER, WEBSITE, AND ANNUAL FINANCIAL
8 INFORMATION. The district shall maintain an Internet website with
9 current information concerning agendas, minutes, policies, monthly
10 financial information concerning revenues and expenses, and
11 quarterly summaries. The district shall provide information,
12 including summary financial information based on the preceding
13 year's annual audit, to district customers at an annual meeting.

14 Sec. 7201.205. DISCONNECTION OF SERVICE AND CUSTOMER FEES.
15 (a) The district may not disconnect service of a customer for late
16 payment before the 31st day after the date the district notifies the
17 customer of the overdue payment.

18 (b) After a disconnection caused by the customer's late
19 payment, the district may not charge a customer a fee for restoring
20 or reinstalling service that exceeds \$25 or twice the amount of the
21 late payment owed, whichever is less.

22 Sec. 7201.206. RATES FOR SERVICES. The district, in
23 connection with water or sewer retail public utility services,
24 shall establish lifeline, senior citizen, or minimum consumption
25 level rates for services. The rate impact of such services shall be
26 allocated on the basis of costs of services to achieve conservation
27 principles, while securing necessary reserves for the payment of

1 operating expenses, sinking funds, principal, interest, and debt
2 coverage factors, and any other objective established by the
3 district's annual budget.

4 Sec. 7201.207. SERVICE CONTRACT ALLOCATION OF COST AND
5 IMMUNITY FROM CLAIMS. (a) In connection with intergovernmental,
6 interlocal, or wholesale service contracts, including cooperative
7 billing for any contract-based service, the district shall allocate
8 costs of service ratably for the service, and the district shall
9 secure indemnity from the contracting party to the extent allowed
10 by law.

11 (b) The district is a governmental unit, as that term is
12 defined by Section 101.001(3), Civil Practice and Remedies Code,
13 and, to the fullest extent provided by law, enjoys immunity from
14 suit and liability, consistent with general law, the Texas Tort
15 Claims Act, Chapter 101, Civil Practice and Remedies Code, and
16 Chapter 49, Water Code, including Section 49.066 of that code.

17 SECTION 2.02. (a) The legal notice of the intention to
18 introduce this article, setting forth the general substance of this
19 article, has been published as provided by law, and the notice and a
20 copy of this article have been furnished to all persons, agencies,
21 officials, or entities to which they are required to be furnished
22 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
23 Government Code.

24 (b) The governor has submitted the notice and article to the
25 Texas Commission on Environmental Quality.

26 (c) The Texas Commission on Environmental Quality has filed
27 its recommendations relating to this article with the governor,

1 lieutenant governor, and speaker of the house of representatives
2 within the required time.

3 (d) The general law relating to consent by political
4 subdivisions to the creation of a conservation and reclamation
5 district and the inclusion of land in the district has been complied
6 with.

7 (e) All requirements of the constitution and laws of this
8 state and the rules and procedures of the legislature with respect
9 to the notice, introduction, and passage of this article are
10 fulfilled and accomplished.

11 SECTION 2.03. (a) Section 49.105(b), Water Code, does not
12 apply to the La Joya Special Utility District until the 30th day
13 after the effective date of this Act.

14 (b) If a vacancy occurs on the board of directors of the La
15 Joya Special Utility District before the 30th day after the
16 effective date of this Act, the period for filing a petition under
17 Section 49.105(b), Water Code, does not begin to run until the 30th
18 day after the effective date of this Act, regardless of the date on
19 which the vacancy occurs.

20 ARTICLE 3. EFFECTIVE DATE

21 SECTION 3.01. This Act takes effect immediately if it
22 receives a vote of two-thirds of all the members elected to each
23 house, as provided by Section 39, Article III, Texas Constitution.
24 If this Act does not receive the vote necessary for immediate
25 effect, this Act takes effect September 1, 2005.

President of the Senate

Speaker of the House

I certify that H.B. No. 1358 was passed by the House on May 4, 2005, by the following vote: Yeas 142, Nays 0, 1 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 1358 on May 23, 2005, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 1358 on May 28, 2005, by the following vote: Yeas 141, Nays 0, 2 present, not voting.

Chief Clerk of the House

H.B. No. 1358

I certify that H.B. No. 1358 was passed by the Senate, with amendments, on May 20, 2005, by the following vote: Yeas 31, Nays 0; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 1358 on May 28, 2005, by a viva-voce vote.

Secretary of the Senate

APPROVED: _____

Date

Governor