

By: Quintanilla

H.B. No. 3491

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the dissolution of the Homestead Municipal Utility
3 District, the provision of water supply services to the residents
4 of the district's service area after dissolution, and the rates
5 charged for water service by the City of El Paso; validating certain
6 actions of the district's board of directors.

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

8 SECTION 1. DEFINITIONS. In this Act:

9 (1) "City" means the City of El Paso.

10 (2) "District" means the Homestead Municipal Utility
11 District.

12 (3) "District board" means the board of directors of
13 the Homestead Municipal Utility District.

14 (4) "Executive director" means the executive director
15 of the Texas Commission on Environmental Quality.

16 SECTION 2. TRANSFER OF ASSETS AND LIABILITIES; REQUEST FOR
17 DISSOLUTION ORDER. (a) The district board may transfer to the City
18 of El Paso the district's assets and liabilities in accordance with
19 the district's written request for El Paso Water Utilities to take
20 over the management of its water supply system.

21 (b) On favorable action of the El Paso Water Utilities
22 Public Service Board, the district board shall notify the executive
23 director and request an order of dissolution.

24 (c) The district board shall provide the executive director

1 with any information or documentation the executive director
2 requests to monitor the district's progress toward the complete
3 transfer of its assets and liabilities to the city.

4 SECTION 3. ORDER OF DISSOLUTION; TRANSFER OF ASSETS AND
5 LIABILITIES. (a) On receipt of the notice and request from the
6 city, the executive director shall investigate to verify whether
7 the parties have met all the necessary conditions for the transfer.

8 (b) After investigation, the executive director shall issue
9 an order of dissolution if the executive director determines:

10 (1) the district is ready to be dissolved;

11 (2) all of the district's assets and liabilities are
12 ready to be transferred to the city for incorporation into the
13 city's water system;

14 (3) the city and the El Paso Water Utilities Public
15 Service Board are prepared to accept the transfer; and

16 (4) the city council has adopted a resolution
17 accepting the transfer.

18 (c) In issuing an order of dissolution under Subsection (b)
19 of this section, the executive director shall:

20 (1) direct the district board to provide the city, the
21 El Paso Water Utilities Public Service Board, and the secretary of
22 state all transfer documents, including all deeds, easements, and
23 bills of sale in the possession of the board, and any other
24 information necessary or appropriate to transfer all district
25 assets and liabilities to the city;

26 (2) order the district dissolved; and

27 (3) order that all assets and liabilities of the

1 district be transferred to the city for incorporation into the
2 city's water system.

3 (d) The consideration and adoption of an order of
4 dissolution under this section is not a contested case under
5 Chapter 2001, Government Code.

6 (e) The order of dissolution issued under this section is
7 wholly sufficient and effective to accomplish the dissolution of
8 the district and the transfer of its assets and liabilities to the
9 city.

10 (f) The executive director shall file with the secretary of
11 state and in the deed records of El Paso County a certified copy of
12 the order of dissolution issued under this section together with a
13 certified copy of the resolution of the city council accepting the
14 transfer.

15 SECTION 4. COLLECTION OF MONEY OWED THE DISTRICT. On or
16 after the date the dissolution order is issued under Section 3 of
17 this Act, the city, through the El Paso Water Utilities Public
18 Service Board, may collect all money owed the district on the date
19 the order is issued including:

20 (1) taxes, fees, or charges imposed by the district
21 that were due and owing on the date of the dissolution order issued
22 under Section 3 of this Act; and

23 (2) the district's accounts receivable.

24 SECTION 5. RATES FOR SERVICE. (a) The city, through the El
25 Paso Water Utilities Public Service Board, may charge residents of
26 El Paso County living in the service area formerly served by the
27 district water supply rates that exceed the rates paid by water

1 supply customers who are residents of the city if the higher rates
2 are necessary or appropriate to fully cover the cost of service to
3 the area, as determined by the El Paso Water Utilities Public
4 Service Board.

5 (b) The water supply rates the city, through the El Paso
6 Water Utilities Public Service Board, charges residents of El Paso
7 County living in the service area formerly served by the district
8 may include:

9 (1) an amount necessary to recover:

10 (A) the costs of operation and maintenance of the
11 water supply or improvements serving the area; and

12 (B) debt service, including the cost of loans
13 accepted to improve the water supply system serving the area; and

14 (2) a monthly water supply fee, if the district does
15 not have surface water rights or potable water wells.

16 (c) Section 16.349, Water Code, does not affect the amount
17 of the fee charged under this section.

18 SECTION 6. VALIDATION. (a) All acts, resolutions, orders,
19 instruments, obligations, and proceedings of the body serving as
20 the district board before the effective date of this Act are in all
21 respects validated, ratified, approved, and confirmed as of the
22 date they were taken, adopted, authorized, issued, entered into, or
23 delivered and shall be treated as though they had originally been
24 authorized and accomplished in accordance with law.

25 (b) An act, resolution, order, instrument, obligation, or
26 proceeding may be held invalid if the body serving as the district
27 board acted with knowledge that the action was illegal.

1 (c) This section does not apply to any matter that on the
2 effective date of this Act:

3 (1) is involved in litigation if in the course of the
4 litigation the matter is held invalid by a final judgment of a court
5 of competent jurisdiction; or

6 (2) has been held invalid by a final judgment of a
7 court of competent jurisdiction.

8 SECTION 7. EFFECTIVE DATE. This Act takes effect
9 immediately if it receives a vote of two-thirds of all the members
10 elected to each house, as provided by Section 39, Article III, Texas
11 Constitution. If this Act does not receive the vote necessary for
12 immediate effect, this Act takes effect September 1, 2005.