

By: Haggerty

H.B. No. 3527

A BILL TO BE ENTITLED

AN ACT

relating to the ability of certain water supply or sewer service corporations to dissolve and transfer assets to a municipality.

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

SECTION 1. Sections 67.001-67.017, Chapter 67, Water Code, are designated as Subchapter A, Chapter 67, Water Code, and a subchapter heading is added to read as follows:

SUBCHAPTER A. GENERAL PROVISIONS

SECTION 2. Chapter 67, Water Code, is amended by adding Subchapter B to read as follows:

SUBCHAPTER B. DISSOLUTION

Sec. 67.051. DEFINITION. In this subchapter, "executive director" means the executive director of the Texas Commission on Environmental Quality.

Sec. 67.052. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a corporation and municipality located in a county:

(1) with a population of 650,000 or more; and

(2) adjacent to an international border.

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

(b) On favorable action of the municipality, the board shall

1 notify the executive director and request an order of dissolution.

2 (c) The board shall provide the executive director with any  
3 information or documentation the executive director requests to  
4 monitor the corporation's progress toward the complete transfer of  
5 its assets and liabilities to the municipality.

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

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

13 (1) the corporation is ready to be dissolved;

14 (2) all of the corporation's assets and liabilities  
15 are ready to be transferred to the municipality for incorporation  
16 into the municipality's water system;

17 (3) the municipality is prepared to accept the  
18 transfer; and

19 (4) the governing body of the municipality has adopted  
20 a resolution accepting the transfer.

21 (c) In issuing an order of dissolution under Subsection (b),  
22 the executive director shall:

23 (1) direct the board to provide to the municipality  
24 and the secretary of state all transfer documents, including all  
25 deeds, easements, and bills of sale in the possession of the board,  
26 and any other information necessary or appropriate to transfer all  
27 corporation assets and liabilities to the municipality;

1           (2) order the corporation dissolved; and

2           (3) order that all assets and liabilities of the  
3 corporation be transferred to the municipality for incorporation  
4 into the municipality's water system.

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

8           (e) The order of dissolution issued under this section is  
9 wholly sufficient and effective to accomplish the dissolution of  
10 the corporation and the transfer of its assets and liabilities to  
11 the municipality.

12           (f) The executive director shall file with the secretary of  
13 state and in the deed records of the county in which the corporation  
14 and municipality are located a certified copy of the order of  
15 dissolution issued under this section together with a certified  
16 copy of the resolution of the governing body of the municipality  
17 accepting the transfer.

18           Sec. 67.055. COLLECTION OF MONEY OWED THE CORPORATION. On  
19 or after the date the dissolution order is issued under Section  
20 67.054, the municipality may collect all money owed the corporation  
21 on the date the order is issued including:

22           (1) taxes, fees, or charges imposed by the corporation  
23 that were due and owing on the date of the dissolution order issued  
24 under Section 67.054; and

25           (2) the corporation's accounts receivable.

26           Sec. 67.056. RATES FOR SERVICE. (a) The municipality may  
27 charge county residents living in the service area formerly served

1 by the corporation water supply rates that exceed the rates paid by  
2 water supply customers who are residents of the municipality if the  
3 higher rates are necessary or appropriate to fully cover the cost of  
4 service to the area, as determined by the municipality.

5 (b) The water supply rates the municipality charges county  
6 residents living in the service area formerly served by the  
7 corporation may include an amount necessary to recover:

8 (1) the costs of operation and maintenance of the  
9 water supply or improvements serving the area; and

10 (2) debt service, including the cost of loans accepted  
11 to improve the water supply system serving the area.

12 (c) Section 16.349 does not affect the amount of the fee  
13 charged under this section.

14 SECTION 3. (a) This section applies only to a water supply  
15 or sewer service corporation located in a county:

16 (1) with a population of 650,000 or more; and

17 (2) adjacent to an international border.

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

26 (c) An act, resolution, order, instrument, obligation, or  
27 proceeding may be held invalid if the body serving as the board of a

1 water supply or sewer service corporation acted with knowledge that  
2 the action was illegal.

3 (d) This section does not apply to any matter that on the  
4 effective date of this Act:

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

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

10 SECTION 4. This Act takes effect immediately if it receives  
11 a vote of two-thirds of all the members elected to each house, as  
12 provided by Section 39, Article III, Texas Constitution. If this  
13 Act does not receive the vote necessary for immediate effect, this  
14 Act takes effect September 1, 2005.