

1-1 By: Shapleigh S.B. No. 1811
1-2 (In the Senate - Filed March 22, 2005; March 30, 2005, read
1-3 first time and referred to Committee on Natural Resources;
1-4 May 2, 2005, reported favorably by the following vote: Yeas 9,
1-5 Nays 0; May 2, 2005, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the ability of certain water supply or sewer service
1-9 corporations to dissolve and transfer assets to a municipality.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Sections 67.001 through 67.017, Chapter 67,
1-12 Water Code, are designated as Subchapter A, Chapter 67, Water Code,
1-13 and a subchapter heading is added to read as follows:

1-14 SUBCHAPTER A. GENERAL PROVISIONS

1-15 SECTION 2. Chapter 67, Water Code, is amended by adding
1-16 Subchapter B to read as follows:

1-17 SUBCHAPTER B. DISSOLUTION

1-18 Sec. 67.051. DEFINITION. In this subchapter, "executive
1-19 director" means the executive director of the Texas Commission on
1-20 Environmental Quality.

1-21 Sec. 67.052. APPLICABILITY OF SUBCHAPTER. This subchapter
1-22 applies only to a corporation and municipality located in a county:

1-23 (1) with a population of 650,000 or more; and

1-24 (2) adjacent to an international border.

1-25 Sec. 67.053. TRANSFER OF ASSETS AND LIABILITIES; REQUEST
1-26 FOR DISSOLUTION ORDER. (a) A board may transfer to a municipality
1-27 the corporation's assets and liabilities in accordance with the
1-28 corporation's written request for the municipality to take over the
1-29 management of the corporation's water supply system.

1-30 (b) On favorable action of the municipality, the board shall
1-31 notify the executive director and request an order of dissolution.

1-32 (c) The board shall provide the executive director with any
1-33 information or documentation the executive director requests to
1-34 monitor the corporation's progress toward the complete transfer of
1-35 its assets and liabilities to the municipality.

1-36 Sec. 67.054. ORDER OF DISSOLUTION; TRANSFER OF ASSETS AND
1-37 LIABILITIES. (a) On receipt of the notice and request from the
1-38 corporation, the executive director shall investigate to verify
1-39 whether the parties have met all the necessary conditions for the
1-40 transfer.

1-41 (b) After investigation, the executive director shall issue
1-42 an order of dissolution if the executive director determines:

1-43 (1) the corporation is ready to be dissolved;

1-44 (2) all of the corporation's assets and liabilities
1-45 are ready to be transferred to the municipality for incorporation
1-46 into the municipality's water system;

1-47 (3) the municipality is prepared to accept the
1-48 transfer; and

1-49 (4) the governing body of the municipality has adopted
1-50 a resolution accepting the transfer.

1-51 (c) In issuing an order of dissolution under Subsection (b),
1-52 the executive director shall:

1-53 (1) direct the board to provide to the municipality
1-54 and the secretary of state all transfer documents, including all
1-55 deeds, easements, and bills of sale in the possession of the board,
1-56 and any other information necessary or appropriate to transfer all
1-57 corporation assets and liabilities to the municipality;

1-58 (2) order the corporation dissolved; and

1-59 (3) order that all assets and liabilities of the
1-60 corporation be transferred to the municipality for incorporation
1-61 into the municipality's water system.

1-62 (d) The consideration and adoption of an order of
1-63 dissolution under this section is not a contested case under
1-64 Chapter 2001, Government Code.

2-1 (e) The order of dissolution issued under this section is
2-2 wholly sufficient and effective to accomplish the dissolution of
2-3 the corporation and the transfer of its assets and liabilities to
2-4 the municipality.

2-5 (f) The executive director shall file with the secretary of
2-6 state and in the deed records of the county in which the corporation
2-7 and municipality are located a certified copy of the order of
2-8 dissolution issued under this section together with a certified
2-9 copy of the resolution of the governing body of the municipality
2-10 accepting the transfer.

2-11 Sec. 67.055. COLLECTION OF MONEY OWED THE CORPORATION. On
2-12 or after the date the dissolution order is issued under Section
2-13 67.054, the municipality may collect all money owed the corporation
2-14 on the date the order is issued including:

2-15 (1) taxes, fees, or charges imposed by the corporation
2-16 that were due and owing on the date of the dissolution order issued
2-17 under Section 67.054; and

2-18 (2) the corporation's accounts receivable.

2-19 Sec. 67.056. RATES FOR SERVICE. (a) The municipality may
2-20 charge county residents living in the service area formerly served
2-21 by the corporation water supply rates that exceed the rates paid by
2-22 water supply customers who are residents of the municipality if the
2-23 higher rates are necessary or appropriate to fully cover the cost of
2-24 service to the area, as determined by the municipality.

2-25 (b) The water supply rates the municipality charges county
2-26 residents living in the service area formerly served by the
2-27 corporation may include an amount necessary to recover:

2-28 (1) the costs of operation and maintenance of the
2-29 water supply or improvements serving the area; and

2-30 (2) debt service, including the cost of loans accepted
2-31 to improve the water supply system serving the area.

2-32 (c) Section 16.349 does not affect the amount of the fee
2-33 charged under this section.

2-34 SECTION 3. (a) This section applies only to a water supply
2-35 or sewer service corporation located in a county:

2-36 (1) with a population of 650,000 or more; and

2-37 (2) adjacent to an international border.

2-38 (b) All acts, resolutions, orders, instruments,
2-39 obligations, and proceedings of the body serving as the board of a
2-40 water supply or sewer service corporation before the effective date
2-41 of this Act are in all respects validated, ratified, approved, and
2-42 confirmed as of the date they were taken, adopted, authorized,
2-43 issued, entered into, or delivered and shall be treated as though
2-44 they had originally been authorized and accomplished in accordance
2-45 with law.

2-46 (c) An act, resolution, order, instrument, obligation, or
2-47 proceeding may be held invalid if the body serving as the board of a
2-48 water supply or sewer service corporation acted with knowledge that
2-49 the action was illegal.

2-50 (d) This section does not apply to any matter that on the
2-51 effective date of this Act:

2-52 (1) is involved in litigation if in the course of the
2-53 litigation the matter is held invalid by a final judgment of a court
2-54 of competent jurisdiction; or

2-55 (2) has been held invalid by a final judgment of a
2-56 court of competent jurisdiction.

2-57 SECTION 4. This Act takes effect immediately if it receives
2-58 a vote of two-thirds of all the members elected to each house, as
2-59 provided by Section 39, Article III, Texas Constitution. If this
2-60 Act does not receive the vote necessary for immediate effect, this
2-61 Act takes effect September 1, 2005.

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