

BILL ANALYSIS

H.B. 479
By: Flores
Natural Resources
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The La Joya Water Supply Corporation supplied water and wastewater service to residents in the western part of Hidalgo County and the eastern part of Starr County. As a non-profit water supply corporation, there was little if any oversight of the business operating procedures by state agencies. La Joya Water Supply Corporation's lack of institutional oversight and specific guidelines regarding operations of the corporation resulted in below par administrative and managerial proceedings with respect to its day-to-day activities. During the 79th Legislative session, H.B. 1358 was passed and the La Joya Special Utility District was created.

H.B. 479 deals with the succession of the La Joya Water Supply Corporation by the La Joya Special Utility District. Currently, the La Joya Water Supply Corporation is under receivership. The bill would authorize the current receiver to take all necessary steps to allow the Texas Commission on Environmental Quality to transfer the Certificates of Necessity and Convenience to the Special Utility District. The bill would also establish a temporary board of directors for the Special Utility District, until a uniform election is held. It would also require the temporary board to receive training and establish an education program for the elected directors.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1. Amends Section 7201.001, Special District Local Laws Code, by adding Subdivision (2-a) to provide that "Director" means a member of the board.

SECTION 2. Amends Section 7201.002, Special District Local Laws Code, by amending subsection (c), as follows:

(c) Provides that the corporation shall be dissolved and succeeded without interruption by the district as provided by Subchapter A1. Deletes language providing for dissolution on the effective date of the Act enacting the chapter.

SECTION 3. Amends Section 7201.021, Special District Local Laws Code, by amending subsections (a), (b), and (d) and adding Subsection (f), as follows:

(a) Provides that after the temporary directors listed under Section 7201.051 have qualified for office under Section 49.055, Water Code, rather than on the effective date of the Act enacting this chapter, the receiver for the corporation shall transfer the assets, debts, and contractual rights and obligations of the corporation to the district and provide notices and make recordings of the transfer required by the Water Code and general law.

(b) Provides that in accordance with the orders of the receivership court and not later than the 30th day after the date of the transfer under Subsection (a), the receiver for the corporation, rather than the board of directors, shall commence dissolution proceedings of the corporation.

(d) Provides that the receiver, rather than the board of directors, for the corporation shall notify the Texas Commission on Environmental Quality of the dissolution of the corporation and its

succession in interest by the district in order to effect the transfer of Certificates of Convenience and Necessity Nos. 10559 and 20785 to the district.

(f) Provides that after the Texas Commission on Environmental Quality takes action required by Subsection (e), the court shall terminate the receivership.

SECTION 4. Amends Section 7201.022, Special District Local Laws Code to provide that the subchapter expires September 1, 2010, rather than 2008.

SECTION 5. Amends Sections 7201.051(a) and (b), Special District Local Laws Code, as follows:

(a) Provides that the temporary board consists of seven directors who shall serve until successor directors are elected and qualify for office. Deletes existing language stating that directors of the corporation who hold office on the effective date of the Act enacting this chapter (Chapter 7201, La Joya Special Utility District) shall serve as temporary directors.

(b) Provides the names of the temporary directors for positions 1 through 7; deletes the names of existing directors for each position; and deletes positions 8 and 9 entirely.

SECTION 6. Amends Subchapter B, Chapter 7201, Special District Local Laws Code, by adding Sections 7201.0512 and 7201.0513, as follows:

Sec. 7201.0512. TEMPORARY BOARD TRAINING. (a) Requires that before December 31, 2007, each temporary director shall complete at least 12 hours of training on district management and compliance with laws applicable to the district as determined by the receiver for the corporation.

(b) Requires the district to reimburse a temporary director for the reasonable expenses incurred by the director in attending the training.

Sec. 7201.0513. EDUCATION PROGRAM. (a) Requires the temporary board, before the first election of directors, to establish a program of education for directors that includes certain listed information.

(b) Requires the board to pay any costs associated with the development of the education program from district revenue.

(c) Provides that the education program may include training provided by an organization offering courses that have been approved by the Texas Commission on Environmental Quality.

(d) Authorizes the board to adopt bylaws modifying the education program as necessary to meet district needs.

SECTION 7. Amends Section 7201.052, Special District Local Laws Code, by amending Subsections (a), (f), (g), and (h) and adding subsections (i), (j), and (k) to read as follows:

(a) Provides that the district shall be governed by a board of seven directors. Deletes language providing that the board consist of not fewer than nine and not more than 11 directors, elected in accordance with Section 49.103, Water Code, notwithstanding Subsection (f)(2) of that section.

(f) Requires the district to hold an election to elect two, rather than three, directors to serve in positions 1 and 2 on the uniform election date in May 2008, or in May 2009 if the election is postponed under Subsection (i) and on that uniform election date every third year after that date. Deletes references to positions 4 and 7 and a 2006 election date.

(g) Requires the district to hold an election to elect two, rather than three, directors to serve in positions 3 and 4 on the uniform election date in May 2009, or in May 2010 if the election is postponed under Subsection (i) and on that uniform election date every third year after that date. Deletes references to positions 2 and 5 and a 2007 election date. Makes a conforming change.

(h) Requires the district to hold an election to elect three directors to serve in positions 5, 6, and 7 on the uniform election date in May 2010, or in May 2011, if the election is postponed under Subsection (i) and on that uniform election date every third year after that date. Deletes references to positions 8 and 9 and a 2008 election date.

(i) Authorizes the temporary board, by order, to postpone until the uniform election date in May of the following year the first election for directors under each of Subsections (f), (g), and (h) if the temporary board determines that there is not sufficient time to comply with the requirements of law and to order the first election of directors to be held on the first uniform election date specified by Subsection (f).

(j) Prohibits a director from serving consecutive terms.

(k) Provides that a person who has served as a member of the board of directors of the corporation is not eligible to serve as a district director.

SECTION 8. Amends Subchapter B, Chapter 7201, Special District Local Laws Code, by adding Sections 7201.053 and 7201.054, as follows:

Sec. 7201.053. DISTRICT TREASURER. (a) Requires the board to elect from among its members one director to serve as district treasurer.

(b) Requires the district treasurer to comply with the training requirements provided by Section 49.1571, Water Code, for an investment officer of a district.

Sec. 7201.054. EDUCATION FOR DIRECTORS. (a) Requires each elected director to complete the education program established under Section 7201.0513 before the first anniversary of the date on which the director was elected.

(b) Requires the district to reimburse a director for the reasonable expenses incurred by the director in attending the education program.

(c) Requires a director who is elected to serve a subsequent term shall fulfill the education requirements specified by district bylaws.

SECTION 9. (a) Provides that except as provided by Chapter 7201, Special District Local Laws Code, as amended by this Act, the La Joya Special Utility District is subject to:

(1) any judicial or administrative order imposing an injunction against the La Joya Water Supply Corporation that is in effect on the date of the transfer under Section 7201.021, Special District Local Laws Code, as amended by this Act; or

(2) any judicial or administrative order imposing liability for monetary damages or a civil or administrative penalty against the La Joya Water Supply Corporation that is unsatisfied on the date of the transfer under Section 7201.021, Special District Local Laws Code, as amended by this Act.

(b) Provides that the section does not relieve a person who served on the board of directors of the La Joya Water Supply Corporation of any individual or joint and several liability imposed by a court of this state for actions taken by that person on behalf of the corporation or prevent the La Joya Special Utility District from filing a claim for damages against that person.

(c) Provides that if the La Joya Special Utility District pays a claim of a person against the La Joya Water Supply Corporation, the district is subrogated to any rights of that person against the corporation to the extent of the amount paid to that person.

SECTION 10. Includes provisions relating to notice required by the Texas Constitution and Texas Statutes; confirming all such acts fulfilled.

SECTION 11. The Act takes effect immediately if it receives 2/3rds vote in each chamber, otherwise it is effective September 1, 2007.

EFFECTIVE DATE

H.B. 479 takes effect immediately if it receives 2/3rds vote in each chamber, otherwise it is effective September 1, 2007.