

BILL ANALYSIS

C.S.S.B. 1207
By: Hegar
County Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Laws governing particular special districts are numerous and vary greatly. Unlike the statutes concerning county and municipal officers, Texas statutes relating to special district board members are largely silent on the issue of officeholder removal. The silence on board removal in special district statutes where the board members have set terms, as opposed to those where board members serve at the pleasure of the appointing authority, leaves a void because Texas courts have long held that in such situations no removal power on the part of the appointing authority can be judicially inferred.

C.S.S.B. 1207 creates a process by which special district board members can be removed from office.

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 Subtitle C, Title 5, Local Government Code, by adding Chapter 177, as follows:

CHAPTER 177. REMOVAL OF SPECIAL DISTRICT BOARD MEMBERS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 177.001. DEFINITIONS. Defines "board," "director," "misconduct," and "special district."

[Reserves Sections 177.002-177.050 for expansion.]

SUBCHAPTER B. REMOVAL OF APPOINTED BOARD MEMBERS FOR MISCONDUCT

Sec. 177.051. APPLICABILITY. (a) Provides that this subchapter applies only to an appointed director. Provides that this subchapter does not apply to certain directors.

(b) Provides that this subchapter applies to any type of special district with a board that is wholly or partly appointed, including certain districts and authorities.

Sec. 177.052. EXEMPTIONS. (a) Provides that this subchapter does not apply to a regional planning commission under Chapter 391 (Regional Planning Commissions), Local Government Code.

(b) Provides that this subchapter does not apply to a director who is a county officer under Section 24, Article V, Texas Constitution.

Sec. 177.053. REMOVAL OF DIRECTOR BY COMMISSIONERS COURT FOR MISCONDUCT. (a) Authorizes the commissioners court of a county to remove a director of a special district located wholly or partly in the county as provided by this subchapter for the director's misconduct.

(b) Provides that, to the extent of a conflict, this section prevails over any conflicting law.

Sec. 177.054. HEARING. (a) Requires the commissioners court that desires to remove a director for misconduct to hold a hearing on the director's removal.

(b) Entitles the director and any interested person to appear at the hearing.

Sec. 177.055. ORDER REMOVING DIRECTOR. (a) Requires the commissioners court of the county, to remove a director of a special district located wholly in one county, to find after the hearing that the director engaged in misconduct and to issue an order removing the director.

(b) Requires a commissioners court that appointed the director on its sole authority, to remove a director of a special district located in more than one county, to find after the hearing that the director engaged in misconduct and issue an order removing the director or, for a director appointed other than on the sole authority of a single commissioners court, requires the commissioners court of each county in which the district is located to find after the hearing held by that court that the director engaged in misconduct and issue an order removing the director.

Sec. 177.056. VACANCY. (a) Authorizes a commissioners court that removes a director by order, if a general or special law that governs the special district does not provide a method for filling a vacancy, to appoint a director to serve the remainder of the removed director's term.

(b) Requires, if the special district is located wholly or partly in more than one county and if the action of more than one commissioners court was needed under Section 177.055(b)(2), the commissioners court of each of those counties to agree on the appointment.

SECTION 2. Effective date: upon passage or September 1, 2007.

EFFECTIVE DATE

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute adds a definition of "misconduct" to the bill.