

By: Rose

H.B. No. 2166

Substitute the following for H.B. No. 2166:

By: Callegari

C.S.H.B. No. 2166

A BILL TO BE ENTITLED

AN ACT

relating to increased oversight, openness, transparency, and accountability for water supply or sewer service corporations.

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

SECTION 1. Section 67.005, Water Code, is amended by adding Subsection (g) to read as follows:

(g) If more than 50 percent of the corporation's connections to provide water or sewer service are within the corporate limits of a general-law municipality, the municipality, by ordinance or resolution adopted at least 30 days before the date of the annual meeting of the members or shareholders of the corporation, may appoint one director to serve as a nonvoting member of the board of the corporation. An appointed director serves a two-year term. Except for voting authority, a director appointed under this subsection has all of the rights and responsibilities of an elected director.

SECTION 2. Subchapter A, Chapter 67, Water Code, is amended by adding Sections 67.0061, 67.0062, and 67.0063 to read as follows:

Sec. 67.0061. DIRECTOR NOMINATIONS. (a) To be listed on the ballot as a candidate for election to a director's position, a person must file with the corporation an application that includes:

(1) the person's written consent to serve, if elected;

(2) biographical information about the person; and

1           (3) a statement of the person's qualifications,  
2 including:

3                   (A) a statement that the person meets the  
4 requirements of Sections 11.002(1), (3), and (4), Election Code;  
5 and

6                   (B) whether the person is a member of the  
7 corporation.

8           (b) The application must be filed with the corporation not  
9 later than the 70th day before the date of the annual meeting.

10           (c) The corporation shall make available director candidate  
11 application forms at the main office of the corporation.

12           Sec. 67.0062. BALLOT FOR ELECTION OF DIRECTORS. The  
13 secretary-treasurer of the board shall:

14                   (1) have the names of all candidates for each  
15 director's position printed on the ballot; and

16                   (2) not later than the 45th day before the date of the  
17 annual meeting, mail the ballot to each person who is a member or  
18 shareholder, along with a statement of the number of directors to be  
19 elected and the biographical information about each candidate,  
20 including the candidate's qualifications as provided by each  
21 candidate for director in the candidate's application.

22           Sec. 67.0063. ELECTION OF DIRECTORS. (a) A member or  
23 shareholder may vote:

24                   (1) in person at the annual meeting;

25                   (2) by delivering a completed ballot to the member's  
26 proxy to submit at the annual meeting;

27                   (3) by mailing a completed ballot postmarked not later

1 than the sixth day before the date of the annual meeting to the  
2 office of the independent election auditor selected by the members  
3 or shareholders at the preceding annual meeting; or

4 (4) by delivering a completed ballot to the main  
5 office of the corporation not later than noon of the day before the  
6 date of the annual meeting.

7 (b) The corporation shall place each ballot received under  
8 Subsection (a)(4) in a sealed envelope and shall deliver the sealed  
9 envelopes to the independent election auditor at the annual  
10 meeting.

11 (c) No person, including the corporation, may use any type  
12 of incentive to encourage a member or shareholder to authorize the  
13 corporation, a committee of the corporation, or another person to  
14 act as the member's proxy in casting the vote of the member in a  
15 director's election. The corporation may provide incentives at an  
16 annual or special meeting of the members solely to encourage a  
17 sufficient number of members to participate in the meeting in  
18 person or by proxy so that the number of members needed for a quorum  
19 is present.

20 (d) The independent election auditor shall receive and  
21 count the ballots before the annual meeting is adjourned.

22 (e) For each director's position, the nominee who receives  
23 the highest number of votes is elected.

24 (f) If two or more candidates for a director's position tie  
25 for the highest number of votes for that position, those candidates  
26 shall draw lots under the direction of the independent election  
27 auditor to determine who is elected.

1        (g) The independent election auditor shall provide the  
2 board with a written report of the election results.

3        (h) The board may adopt rules as needed to implement this  
4 section, including rules to ensure the fairness, integrity, and  
5 openness of the voting process.

6        SECTION 3. Section 67.007, Water Code, is amended by  
7 amending Subsection (b) and adding Subsection (d) to read as  
8 follows:

9        (b) The board shall adopt written procedures for conducting  
10 an annual or special meeting of the members or shareholders, which  
11 shall include the following:

12            (1) notification to eligible members or shareholders  
13 of the proposed agenda, location, and date of the meeting;

14            (2) establishment of a quorum consisting of proxies  
15 and the votes of members or shareholders present;

16            (3) nomination and election procedures;

17            (4) procedures for selecting an independent election  
18 auditor required by Section 67.0063;

19            (5) approval of the proxy and ballot form to be used;  
20 and

21            (6) [~~5~~] validation of eligible voters, proxies,  
22 ballots, and election results.

23        (d) An independent election auditor must be selected at each  
24 annual meeting for the following annual meeting at which one or more  
25 directors are scheduled to be elected. The independent auditor is  
26 not required to be an experienced election judge or auditor and may  
27 serve as an unpaid volunteer. At the time of selection and while

1 serving in the capacity of an independent election auditor, the  
2 independent election auditor may not be associated with the  
3 corporation as:

4 (1) an employee or independent contractor; or

5 (2) a director or candidate for director.

6 SECTION 4. Subchapter A, Chapter 67, Water Code, is amended  
7 by adding Section 67.0085 to read as follows:

8 Sec. 67.0085. AUDIT REQUIREMENTS. Subchapter G, Chapter 49,  
9 applies to a corporation with 500 or more members in the same manner  
10 that it applies to a district under that chapter. For purposes of  
11 applying that subchapter to a corporation:

12 (1) "board" means the board of directors of a  
13 corporation; and

14 (2) "district" means a corporation.

15 SECTION 5. A water supply or sewer service corporation  
16 operating under Chapter 67, Water Code, is subject to the audit  
17 requirements of Section 67.0085, Water Code, as added by this Act,  
18 beginning with the first fiscal year of the corporation that begins  
19 on or after September 1, 2009.

20 SECTION 6. The board of directors of a water supply or sewer  
21 service corporation operating under Chapter 67, Water Code, shall  
22 select an independent election auditor at least 30 days before the  
23 scheduled date of the 2010 annual meeting of the corporation.

24 SECTION 7. This Act takes effect September 1, 2009.