

By: Wentworth

S.B. No. 1960

A BILL TO BE ENTITLED

1 AN ACT

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

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

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

7 (g) If more than 50 percent of the corporation's connections
8 to provide water or sewer service are within the corporate limits of
9 a general-law municipality, the municipality, by ordinance or
10 resolution adopted at least 30 days before the date of the annual
11 meeting of the members or shareholders of the corporation, may
12 create a new position on the board of the corporation and appoint a
13 director to serve in that position as a nonvoting member of the
14 board. An appointed director serves a two-year term. A director
15 appointed under this subsection has all of the rights and
16 responsibilities of an elected director except that such director
17 does not have the right to vote or the right to participate in an
18 executive session of the board of the corporation in which the board
19 will receive legal advice concerning contracts or litigation
20 relating to the municipality.

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

24 Sec. 67.0061. DIRECTOR NOMINATIONS. (a) To be listed on

1 the ballot as a candidate for election to a director's position, a
2 person must file with the corporation an application that includes:

- 3 (1) the person's written consent to serve, if elected;
4 (2) biographical information about the person; and
5 (3) a statement of the person's qualifications,
6 including:

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

10 (B) whether the person is a member of the
11 corporation.

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

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

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

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

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

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

1 (1) in person at the annual meeting;

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

4 (3) by mailing a completed ballot postmarked not later
5 than the sixth day before the date of the annual meeting to the
6 office of the independent election auditor selected by the members
7 or shareholders at the preceding annual meeting; or

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

11 (b) The corporation shall place each ballot received under
12 Subsection (a)(4) in a sealed envelope and shall deliver the sealed
13 envelopes to the independent election auditor at the annual
14 meeting.

15 (c) No person, including the corporation, may use any type
16 of incentive to encourage a member or shareholder to authorize the
17 corporation, a committee of the corporation, or another person to
18 act as the member's proxy in casting the vote of the member in a
19 director's election. The corporation may provide incentives to
20 obtain proxies or to encourage attendance at an annual or special
21 meeting of the members solely for the purpose of establishing a
22 quorum.

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

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

27 (f) If two or more candidates for a director's position tie

1 for the highest number of votes for that position, those candidates
2 shall draw lots under the direction of the independent election
3 auditor to determine who is elected.

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

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

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

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

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

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

19 (3) nomination and election procedures;

20 (4) procedures for selecting an independent election
21 auditor required by Section 67.0063;

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

23 and

24 (6) [~~5~~] validation of eligible voters, proxies,
25 ballots, and election results.

26 (d) An independent election auditor must be selected at each
27 annual meeting for the following annual meeting at which one or more

1 directors are scheduled to be elected. The independent auditor is
2 not required to be an experienced election judge or auditor and may
3 serve as an unpaid volunteer. At the time of selection and while
4 serving in the capacity of an independent election auditor, the
5 independent election auditor may not be associated with the
6 corporation as:

- 7 (1) an employee or independent contractor; or
8 (2) a director or candidate for director.

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

11 Sec. 67.0085. AUDIT REQUIREMENTS. Subchapter G, Chapter
12 49, applies to a corporation with 500 or more members in the same
13 manner that it applies to a district under that chapter. For
14 purposes of applying that subchapter to a corporation:

- 15 (1) "board" means the board of directors of a
16 corporation; and
17 (2) "district" means a corporation.

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

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

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