

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. Subchapter C, Chapter 13, Water Code, is amended  
6 by adding Section 13.0422 to read as follows:

7 Sec. 13.0422. MUNICIPAL AND COMMISSION JURISDICTION OVER  
8 CERTAIN WATER SUPPLY OR SEWER SERVICE CORPORATIONS. (a)  
9 Notwithstanding Section 13.004 or any other provision of this  
10 chapter and subject to this section, for the purpose of regulating  
11 rates and services so that those rates may be fair, just, and  
12 reasonable and the services adequate and efficient, the governing  
13 body of each municipality has exclusive original jurisdiction over  
14 all rates, operations, and services provided by a water supply or  
15 sewer service corporation within the municipality's corporate  
16 limits. A municipality shall exercise that jurisdiction in the  
17 same manner, and in accordance with the same limitations, as a  
18 municipality exercises its jurisdiction under this chapter over a  
19 water or sewer utility that provides service within the  
20 municipality's corporate limits.

21 (b) The governing body of a municipality by ordinance may  
22 elect to have the commission exercise exclusive original  
23 jurisdiction over the rates, operations, and services provided by a  
24 water supply or sewer service corporation within the municipality's

1 corporate limits.

2 (c) The commission has exclusive appellate jurisdiction to  
3 review orders or ordinances a municipality issues in the exercise  
4 of the municipality's original jurisdiction under this section.

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

8 Sec. 67.0061. DIRECTOR NOMINATIONS. (a) To be listed on the  
9 ballot as a candidate for election to a director's position, a  
10 person must file with the secretary-treasurer of the board an  
11 application that includes:

12 (1) a petition signed by at least 25 members or  
13 shareholders requesting that the person be nominated;

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

15 (3) biographical information about the person; and

16 (4) a statement of the person's qualifications,  
17 including a statement that the person is a qualified voter as that  
18 term is defined by Section 11.002, Election Code.

19 (b) The application must be filed with the  
20 secretary-treasurer of the board not later than the 70th day before  
21 the date of the annual meeting.

22 (c) The secretary-treasurer of the board shall make  
23 available at the main office of the corporation nomination petition  
24 forms.

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

27 (1) have the names of all candidates for each

1 director's position printed on the ballot; and

2 (2) not later than the 45th day before the date of the  
3 annual meeting, mail the ballot to each person who is a member or  
4 shareholder, along with a statement of the number of directors to be  
5 elected and the biographical information about each candidate,  
6 including the candidate's qualifications.

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

9 (1) in person at the annual meeting;

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

12 (3) by mailing a completed ballot postmarked not later  
13 than the fifth day before the date of the annual meeting to the  
14 office of the independent election auditor selected by the members  
15 or shareholders at the preceding annual meeting; or

16 (4) by delivering a completed ballot to the office of  
17 the independent election auditor or the main office of the  
18 corporation not later than the fifth day before the date of the  
19 annual meeting.

20 (b) In this subsection, "member" means a member or a  
21 shareholder. A person may not use any type of incentive to encourage  
22 a member to authorize another individual to act as the member's  
23 proxy in casting the vote of the member in a director's election.

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

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

1       (e) If two or more candidates for a director's position tie  
2 for the highest number of votes for that position, those candidates  
3 shall draw lots under the direction of the independent election  
4 auditor to determine who is elected.

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

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

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

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

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

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

20               (3) nomination and election procedures;

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

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

24 and

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

27       (d) An independent election auditor must be selected at

1 least 30 days before each annual meeting at which one or more  
2 directors are scheduled to be elected. At the time of selection and  
3 while serving in the capacity of an independent election auditor,  
4 the independent election auditor may not be associated with the  
5 corporation as:

6 (1) an employee or independent contractor; or

7 (2) a director or candidate for director.

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

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

14 (1) "board" means the board of directors of a  
15 corporation; and

16 (2) "district" means a corporation.

17 SECTION 5. A water supply or sewer service corporation  
18 operating under Chapter 67, Water Code, shall call and hold a  
19 special meeting of the members or shareholders to select an  
20 independent election auditor at least 30 days before the scheduled  
21 date of the 2010 annual meeting of the corporation.

22 SECTION 6. A water supply or sewer service corporation  
23 operating under Chapter 67, Water Code, is subject to the audit  
24 requirements of Section 67.0085, Water Code, as added by this Act,  
25 beginning with the first fiscal year of the corporation that begins  
26 on or after September 1, 2009.

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