

1-1 By: Wentworth S.B. No. 1960
1-2 (In the Senate - Filed March 12, 2009; March 24, 2009, read
1-3 first time and referred to Committee on Natural Resources;
1-4 May 8, 2009, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 7, Nays 0; May 8, 2009, sent
1-6 to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1960 By: Estes

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to increased oversight, openness, transparency, and
1-11 accountability for water supply or sewer service corporations.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 67.005, Water Code, is amended by adding
1-14 Subsection (g) to read as follows:

1-15 (g) If more than 50 percent of the corporation's connections
1-16 to provide water or sewer service are within the corporate limits of
1-17 a general-law municipality, the municipality, by ordinance or
1-18 resolution adopted at least 30 days before the date of the annual
1-19 meeting of the members or shareholders of the corporation, may
1-20 create a new position on the board of the corporation and appoint a
1-21 director to serve in that position as a nonvoting member of the
1-22 board. An appointed director serves a two-year term. Except for
1-23 voting authority, a director appointed under this subsection has
1-24 all of the rights and responsibilities of an elected director.

1-25 SECTION 2. Subchapter A, Chapter 67, Water Code, is amended
1-26 by adding Sections 67.0061, 67.0062, and 67.0063 to read as
1-27 follows:

1-28 Sec. 67.0061. DIRECTOR NOMINATIONS. (a) To be listed on
1-29 the ballot as a candidate for election to a director's position, a
1-30 person must file with the corporation an application that includes:

1-31 (1) the person's written consent to serve, if elected;
1-32 (2) biographical information about the person; and
1-33 (3) a statement of the person's qualifications,

1-34 including:

1-35 (A) a statement that the person meets the
1-36 requirements of Sections 11.002(1), (3), and (4), Election Code;
1-37 and

1-38 (B) whether the person is a member of the
1-39 corporation.

1-40 (b) The application must be filed with the corporation not
1-41 later than the 70th day before the date of the annual meeting.

1-42 (c) The corporation shall make available director candidate
1-43 application forms at the main office of the corporation.

1-44 Sec. 67.0062. BALLOT FOR ELECTION OF DIRECTORS. The
1-45 secretary-treasurer of the board shall:

1-46 (1) have the names of all candidates for each
1-47 director's position printed on the ballot; and

1-48 (2) not later than the 45th day before the date of the
1-49 annual meeting, mail the ballot to each person who is a member or
1-50 shareholder, along with a statement of the number of directors to be
1-51 elected and the biographical information about each candidate,
1-52 including the candidate's qualifications as provided by each
1-53 candidate for director in the candidate's application.

1-54 Sec. 67.0063. ELECTION OF DIRECTORS. (a) A member or
1-55 shareholder may vote:

1-56 (1) in person at the annual meeting;

1-57 (2) by delivering a completed ballot to the member's
1-58 proxy to submit at the annual meeting;

1-59 (3) by mailing a completed ballot postmarked not later
1-60 than the sixth day before the date of the annual meeting to the
1-61 office of the independent election auditor selected by the members
1-62 or shareholders at the preceding annual meeting; or

1-63 (4) by delivering a completed ballot to the main

2-1 office of the corporation not later than noon of the day before the
2-2 date of the annual meeting.

2-3 (b) The corporation shall place each ballot received under
2-4 Subsection (a)(4) in a sealed envelope and shall deliver the sealed
2-5 envelopes to the independent election auditor at the annual
2-6 meeting.

2-7 (c) No person, including the corporation, may use any type
2-8 of incentive to encourage a member or shareholder to authorize the
2-9 corporation, a committee of the corporation, or another person to
2-10 act as the member's proxy in casting the vote of the member in a
2-11 director's election. The corporation may provide incentives to
2-12 obtain proxies or to encourage attendance at an annual or special
2-13 meeting of the members solely for the purpose of establishing a
2-14 quorum.

2-15 (d) The independent election auditor shall receive and
2-16 count the ballots before the annual meeting is adjourned.

2-17 (e) For each director's position, the nominee who receives
2-18 the highest number of votes is elected.

2-19 (f) If two or more candidates for a director's position tie
2-20 for the highest number of votes for that position, those candidates
2-21 shall draw lots under the direction of the independent election
2-22 auditor to determine who is elected.

2-23 (g) The independent election auditor shall provide the
2-24 board with a written report of the election results.

2-25 (h) The board may adopt rules as needed to implement this
2-26 section, including rules to ensure the fairness, integrity, and
2-27 openness of the voting process.

2-28 SECTION 3. Section 67.007, Water Code, is amended by
2-29 amending Subsection (b) and adding Subsection (d) to read as
2-30 follows:

2-31 (b) The board shall adopt written procedures for conducting
2-32 an annual or special meeting of the members or shareholders, which
2-33 shall include the following:

2-34 (1) notification to eligible members or shareholders
2-35 of the proposed agenda, location, and date of the meeting;

2-36 (2) establishment of a quorum consisting of proxies
2-37 and the votes of members or shareholders present;

2-38 (3) nomination and election procedures;

2-39 (4) procedures for selecting an independent election
2-40 auditor required by Section 67.0063;

2-41 (5) approval of the proxy and ballot form to be used;
2-42 and

2-43 (6) ~~(5)~~ validation of eligible voters, proxies,
2-44 ballots, and election results.

2-45 (d) An independent election auditor must be selected at each
2-46 annual meeting for the following annual meeting at which one or more
2-47 directors are scheduled to be elected. The independent auditor is
2-48 not required to be an experienced election judge or auditor and may
2-49 serve as an unpaid volunteer. At the time of selection and while
2-50 serving in the capacity of an independent election auditor, the
2-51 independent election auditor may not be associated with the
2-52 corporation as:

2-53 (1) an employee or independent contractor; or

2-54 (2) a director or candidate for director.

2-55 SECTION 4. Subchapter A, Chapter 67, Water Code, is amended
2-56 by adding Section 67.0085 to read as follows:

2-57 Sec. 67.0085. AUDIT REQUIREMENTS. Subchapter G, Chapter
2-58 49, applies to a corporation with 500 or more members in the same
2-59 manner that it applies to a district under that chapter. For
2-60 purposes of applying that subchapter to a corporation:

2-61 (1) "board" means the board of directors of a
2-62 corporation; and

2-63 (2) "district" means a corporation.

2-64 SECTION 5. A water supply or sewer service corporation
2-65 operating under Chapter 67, Water Code, is subject to the audit
2-66 requirements of Section 67.0085, Water Code, as added by this Act,
2-67 beginning with the first fiscal year of the corporation that begins
2-68 on or after September 1, 2009.

2-69 SECTION 6. The board of directors of a water supply or sewer

3-1 service corporation operating under Chapter 67, Water Code, shall
3-2 select an independent election auditor at least 30 days before the
3-3 scheduled date of the 2010 annual meeting of the corporation.
3-4 SECTION 7. This Act takes effect September 1, 2009.

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