

By: Menendez

H.B. No. 648

A BILL TO BE ENTITLED

AN ACT

relating to the appointment of a conservator for and authorizing
the dissolution of the Bexar Metropolitan Water District.

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

SECTION 1. Chapter 306, Acts of the 49th Legislature,
Regular Session, 1945, is amended by adding Sections 1A, 34, 35, 36,
37, 38, 39, 40, 41, 42, and 43 to read as follows:

Sec. 1A. In this Act:

(1) "District" means the Bexar Metropolitan Water
District.

(2) "Board" means the District's Board of Directors.

(3) "Director" means a Board member of the District

(4) "Commission" means the Texas Commission on
Environmental Quality.

(5) "Committee" means the Joint Committee on Oversight
of the Bexar Metropolitan Water District.

Sec. 34. (a) The Commission shall appoint as conservator
for the District an individual who, at the time of the individual's
appointment:

(1) has demonstrated a high level of expertise in
water utility management;

(2) is not a Director; and

(3) has no financial interest in the District or in any
non-governmental entity that has a contract with the District or

1 that is likely to develop a contractual relationship with the
2 District.

3 (b) The conservator's term expires on the earlier of:

4 (1) the date the conservatorship for which the
5 conservator is appointed dissolves under Section 39; or

6 (2) the date on which the Commission appoints a
7 receiver in Section 41, following an election held under Section 40
8 in which a majority of the votes favor dissolution.

9 Sec. 35. (a) A conservator appointed under Section 34 is
10 entitled to receive a salary for performing those duties.

11 (b) The District shall pay the compensation of the
12 conservator.

13 Sec. 36. (a) A conservator appointed under Section 34 is
14 entitled to reimbursement of the reasonable and necessary expenses
15 incurred by the conservator in the course of performing duties
16 under Section 37.

17 (b) The District shall pay any reasonable and necessary
18 expenses incurred by the conservator.

19 Sec. 37. (a) The conservator shall advise the Board on
20 matters relating to the District's rehabilitation. The Board shall
21 work cooperatively with the conservator to improve the Board's
22 ability to oversee the management and operation of the District in a
23 professional manner.

24 (b) In addition to the duties under Subsection (a), the
25 conservator shall:

26 (1) complete an inventory of and evaluate each
27 distinct water system in the District to determine:

1 (A) the District's basis in or the intrinsic
2 value of the infrastructure associated with that water system;

3 (B) the District's bonded debt and commercial
4 paper reasonably associated with or allocable to the infrastructure
5 in that water system; and

6 (C) the adequacy of the water supply sources,
7 water storage facilities, distribution systems and related
8 infrastructure to supply current and projected demands in that
9 service area;

10 (2) identify any District assets whose sale or would
11 be likely to improve the District's ability to serve its remaining
12 customers; and

13 (3) develop a comprehensive rehabilitation plan for
14 the District that:

15 (A) identifies strategies for restoring the
16 District's financial integrity and developing a system of sound
17 financial management;

18 (B) describes a standard of ethics,
19 professionalism, and openness expected of each Director and
20 employee of the District;

21 (C) provides a mechanism to enforce compliance
22 with District policies, including procurement policies;

23 (D) identifies ways to enhance the District's
24 operational efficiency and improve the District's provision of
25 redundancy in water services to its ratepayer; and

26 (E) provides for educating the new Board members
27 and management personnel and continuing education for existing

1 Board and management personnel on improving management practices
2 and complying with District policy and state and federal laws and
3 regulations.

4 Sec. 38. The conservator shall report to the Commission and
5 to the Legislative Oversight Committee regularly on the progress
6 the conservator has made in carrying out the duties under Section
7 37.

8 Sec. 39. After the election referenced in Section 40 has
9 been held, and if the majority of the votes in the election do not
10 favor dissolution, the conservator shall:

11 (a) report to the Commission and the Committee on whether
12 the District can be sufficiently rehabilitated to provide reliable,
13 cost-effective, quality service to its customers, and the
14 Commission shall evaluate the condition of the District and
15 determine whether:

16 (1) the District can be sufficiently rehabilitated to
17 enable the District to provide reliable, cost-effective, quality
18 service to its customers; and

19 (2) the conservatorship is still necessary.

20 (b) After determining that the District can be sufficiently
21 rehabilitated and that the conservator is no longer necessary, the
22 Commission may issue an order dissolving the conservatorship.

23 Sec. 40. (a) On the next uniform election date after
24 passage of this bill, an election shall be held in the District on
25 the question of dissolving the District and disposing of the
26 District's assets and obligations.

27 (b) If a dissolution election were precluded from taking

1 place due to preclearance under Section 5 of the federal Voting
2 Rights Act of 1965 (42 U.S.C. Section 1973c), the dissolution
3 election shall take place on the next uniform election date
4 following the preclearance.

5 (c) The election in Subsection (a) shall be conducted by
6 each County in which the District has territory. The District shall
7 reimburse each county for the reasonable and customary costs of
8 holding the elections.

9 (d) Bexar, Medina and Atascosa Counties shall be
10 responsible for coordinating the election and shall issue the order
11 calling the election in their respective counties.

12 (e) The order calling the election must state:

13 (1) the nature of the election, including the
14 proposition to appear on the ballot;

15 (2) the date of the election;

16 (3) the hours during which the polls will be open; and

17 (4) the location of the polling places.

18 (f) Section 41.001(a), Election Code, does not apply to an
19 election ordered under this section.

20 (g) Bexar, Medina and Atascosa Counties shall give notice of
21 an election under this Section by publishing once a week for two
22 consecutive weeks a substantial copy of the election order in a
23 newspaper with general circulation in the District. The first
24 publication of the notice must appear not later than the 35th day
25 before the date of the election.

26 (h) The ballot for an election under this Section must be
27 printed or otherwise prepared to permit voting for or against the

1 proposition: "The dissolution of the Bexar Metropolitan Water
2 District."

3 (i) If a majority of the votes in an election under this
4 Section favor dissolution, the results of such election shall be
5 certified to the Secretary of State no later than ten days after the
6 canvass of the results of the election.

7 (j) To the extent that Subsection (a) of this Section is
8 subject to preclearance under Section 5 of the federal Voting
9 Rights Act of 1965 (42 U.S.C. Section 1973c) and Subsection (a) has
10 not received the appropriate preclearance in time to allow the
11 counties to call an election on the date specified in Subsection
12 (a), the election shall be held on the next uniform election date
13 following the 60th day after the date of preclearance of Subsection
14 (a).

15 Sec. 41. (a) If a majority of the votes in the election held
16 under Section 40 favor dissolution, the term of each person who is
17 serving as a Director of the District on the date of the canvass of
18 the election expires on that date. Not later than the 60th day
19 after the date of the canvass of the election, the Commission shall
20 appoint a receiver for the purposes described by this section.

21 (b) Under the Commission's and Committee's oversight, the
22 receiver shall transfer or assign the rights and duties of the
23 District associated with the provision of water services, including
24 existing contracts, assets, and liabilities of the District, to one
25 or more appropriate entities in such a manner that service to the
26 existing customers of the District is not interrupted. If any funds
27 remain after the payment of all the debts of the District, the

1 receiver shall issue a rebate to the ratepayers in the District in
2 an amount sufficient to deplete the remaining funds.

3 (c) After the District has paid all its debts and has
4 disposed of all its money and other assets as prescribed by this
5 section, the receiver shall file a written report with the
6 Commission and Committee summarizing the receiver's actions in
7 dissolving the District.

8 (d) Not later than the 60th day after the date the
9 Commission receives the report and determines that the requirements
10 of this section have been fulfilled, the Commission shall enter an
11 order dissolving the District and releasing the receiver from any
12 further duty or obligation.

13 Sec. 42. If the majority of votes favor dissolution in an
14 election held under Section 40, this Act expires on the date the
15 Commission enters an order dissolving the District.

16 Sec. 43. (a) If the majority of votes in an election held
17 under Section 40 do not favor dissolution, the conservator
18 appointed under Sec. 34 continues to serve until the
19 conservatorship is dissolved under Section 39.

20 (b) In the event that the election results from an election
21 held under Section 40 are not in favor of dissolution of the
22 District, the Commission may order the District to implement any
23 part of the rehabilitation plan and other recommendations developed
24 under Section 37.

25 (c) Notwithstanding any other law, if the District fails to
26 comply with a Commission order issued under Subsection (b), the
27 Commission may assess a penalty against the District under Texas

1 Water Code Section 13.4151.

2 SECTION 2. (a) The legal notice of the intention to
3 introduce this Act, setting forth the general substance of this
4 Act, has been published as provided by law, and the notice and a
5 copy of this Act have been furnished to all persons, agencies,
6 officials, or entities to which they are required to be furnished
7 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
8 Government Code.

9 (b) The governor, one of the required recipients, has
10 submitted the notice and Act to the Texas Commission on
11 Environmental Quality.

12 (c) The Texas Commission on Environmental Quality has filed
13 its recommendations relating to this Act with the governor, the
14 lieutenant governor, and the speaker of the house of
15 representatives within the required time.

16 (d) All requirements of the constitution and laws of this
17 state and the rules and procedures of the legislature with respect
18 to the notice, introduction, and passage of this Act are fulfilled
19 and accomplished.

20 SECTION 7. This Act takes effect immediately if it receives
21 a vote of two-thirds of all the members elected to each house, as
22 provided by Section 39, Article III, Texas Constitution. If this
23 Act does not receive the vote necessary for immediate effect, this
24 Act takes effect September 1, 2011.