

By: Larson

H.B. No. 1752

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. Section 1, Chapter 306, Acts of the 49th Legislature, Regular Session, 1945, is amended to read as follows:

Sec. 1. In obedience to the provisions of Article 16, Section 59 of the Constitution of Texas, there is hereby created Bexar Metropolitan Water District. [~~hereinafter in this Act sometimes called the "District."~~]

SECTION 2. 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, 43, 44, 45, 46, and 47 to read as follows:

Sec. 1A. In this Act:

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

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

(3) "Director" means a Board member.

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

(5) "System" means a water utility owned by a municipality with a population of more than one million that includes portions of the Edwards and Trinity Aquifers.

Sec. 34. (a) The Commission shall appoint as conservator

1 for the District an individual who, at the time of the individual's  
2 appointment:

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

5 (2) is not a Director; and

6 (3) has no financial interest in the District or any  
7 entity that has a contract with the District or that is likely to  
8 develop a contractual relationship with the District.

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

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

12 (2) the date the Commission, in consultation with the  
13 System, determines that the duties of the conservator under this  
14 Act have been discharged.

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

17 (b) The District shall pay the compensation of the  
18 conservator.

19 Sec. 36. (a) A conservator appointed under Section 34 is  
20 entitled to reimbursement of the reasonable and necessary expenses  
21 incurred by the conservator in the course of performing duties  
22 under this Act.

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

25 Sec. 37. (a) The conservator shall advise the Board on  
26 matters relating to the District's rehabilitation. The Board shall  
27 work cooperatively with the conservator to improve the Board's

1 ability to manage and operate the District in a professional  
2 manner.

3 (b) The conservator shall:

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

6 (A) the District's infrastructure associated  
7 with that water system;

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

11 (C) the adequacy of the water supply sources,  
12 water storage facilities, distribution systems, and related  
13 infrastructure located in that water system's service area to  
14 supply current and projected demands in that service area;

15 (2) identify any District assets whose sale or  
16 transfer to another appropriate public water utility would be  
17 likely to improve:

18 (A) service to the former District customers who  
19 would be served by that utility; or

20 (B) the District's overall efficiency;

21 (3) compile a list and copies of existing contracts to  
22 which the District is a party, including for each contract:

23 (A) effective and termination dates;

24 (B) general scope of the goods and services  
25 involved;

26 (C) obligations of the District, including  
27 financial obligations; and

1                   (D) general benefit to the District; and  
2           (4) develop a comprehensive rehabilitation plan for  
3 the District that:

4                   (A) identifies strategies for restoring the  
5 District's financial integrity and developing a system of sound  
6 financial management;

7                   (B) describes a standard of ethics,  
8 professionalism, and openness expected of each Director and  
9 employee of the District;

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

12                   (D) identifies ways to enhance the District's  
13 operational efficiency and improve the District's provision of  
14 redundancy in water services; and

15                   (E) provides for educating the Board and  
16 management personnel on improving management practices and  
17 complying with District policy and state and federal laws and  
18 regulations.

19           Sec. 38. The conservator shall report to the Commission and  
20 the Bexar Metropolitan Water District Oversight Committee  
21 regularly on the progress the conservator has made in carrying out  
22 the duties under Section 37.

23           Sec. 39. (a) If a majority of the votes in an election held  
24 under Section 40 do not favor dissolution, and the conservator  
25 reports to the Commission that the District has been sufficiently  
26 rehabilitated to provide reliable, cost-effective, quality service  
27 to its customers, the Commission shall evaluate the condition of

1 the District and determine whether:

2 (1) the District has been sufficiently rehabilitated  
3 to enable the District to provide reliable, cost-effective, quality  
4 service to its customers; and

5 (2) the conservatorship is no longer necessary.

6 (b) After an evaluation under Subsection (a), the  
7 Commission may issue an order dissolving the conservatorship if the  
8 Commission determines that the District has been sufficiently  
9 rehabilitated and the conservatorship is no longer necessary.

10 (c) The Commission may not dissolve the conservatorship  
11 before an election is held under Section 40.

12 Sec. 40. (a) On the next uniform election date following  
13 the 60th day after the date of preclearance under Section 5 of the  
14 federal Voting Rights Act of 1965 (42 U.S.C. Section 1973c) of all  
15 provisions of the Act enacting this section that are subject to that  
16 preclearance, the Commission shall hold an election in the District  
17 on the question of dissolving the District and disposing of the  
18 District's assets and obligations. If the Commission determines  
19 that preclearance under Section 5 of the federal Voting Rights Act  
20 of 1965 is not required, the Commission shall hold the election on  
21 the next uniform election date that falls at least 60 days after the  
22 date the Commission makes that determination.

23 (b) The order calling the election must state:

24 (1) the nature of the election, including the  
25 proposition to appear on the ballot;

26 (2) the date of the election;

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

1           (4) the location of the polling places.

2           (c) The Commission shall give notice of an election under  
3 this section by publishing once a week for two consecutive weeks a  
4 substantial copy of the election order in a newspaper with general  
5 circulation in the District. The first publication of the notice  
6 must appear not later than the 35th day before the date of the  
7 election.

8           (d) The ballot for an election under this section must be  
9 printed to permit voting for or against the proposition: "The  
10 dissolution of the Bexar Metropolitan Water District and the  
11 transfer of all the District's assets, liabilities, and duties to  
12 the water utility of the municipality with the largest population  
13 in the area formerly served by the District."

14           Sec. 41. (a) If a majority of the votes in the election held  
15 under Section 40 favor dissolution, the term of each person who is  
16 serving as a Director of the District on the date of the canvass of  
17 the election expires on that date.

18           (b) Under the Commission's oversight, the conservator shall  
19 transfer or assign to the System the:

20           (1) rights and duties of the District associated with  
21 the provision of water services, including existing contracts,  
22 assets, and liabilities of the District; and

23           (2) files and records of the District that pertain to  
24 the control, management, and operation of the District.

25           (c) After the conservator has transferred the property,  
26 assets, and liabilities as prescribed by this section, the  
27 conservator shall file a written report with the Commission

1 summarizing the conservator's actions in dissolving the District.

2 (d) Not later than the 10th day after the date the  
3 Commission receives the report and determines that the requirements  
4 of this section have been fulfilled, the Commission shall enter an  
5 order dissolving the District and releasing the conservator from  
6 any further duty or obligation.

7 Sec. 42. If the majority of votes favor dissolution in an  
8 election held under Section 40, this Act expires on the second  
9 anniversary of the date the Commission enters an order dissolving  
10 the District.

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

15 (b) The Commission may order the District to implement any  
16 part of the rehabilitation plan developed under Section 37.

17 Sec. 44. (a) The System may integrate the services and  
18 infrastructure of the District into the System.

19 (b) The System may operate the former District as a special  
20 project under the System's existing senior lien revenue bond  
21 ordinances. All the obligations and liabilities of the former  
22 District and new obligations of the System entered into for the  
23 benefit of the former District ratepayers are payable from revenue  
24 derived from the operation of the special project and not payable  
25 from revenue of the System.

26 (c) Once the conservator has transferred the assets,  
27 liabilities, and duties to the System, the System shall provide

1 affordable and reliable water services to the former ratepayers of  
2 the District.

3 Sec. 45. (a) For a 24-month period following the transfer  
4 of the employment of any employee of the former District, the System  
5 may not terminate that employee, except for cause, if the employee:

6 (1) is vested in the retirement program of the  
7 District on the effective date of the Act enacting this section; and

8 (2) earns an annual base salary of less than \$50,000 on  
9 the effective date of the Act enacting this section.

10 (b) An employee who qualifies under Subsection (a) and who  
11 is terminated by the System has the same opportunity for appeal as a  
12 person employed by the System who is not an employee of the former  
13 District.

14 (c) The System is not required to employ an employee of the  
15 District if that person was formerly terminated from, or resigned  
16 in lieu of termination from the System.

17 Sec. 46. From the effective date of the Act enacting this  
18 section until the date election results under Section 40 are  
19 certified to the Secretary of State, the attorney general may not  
20 approve any public security, as defined by Chapter 1201, Government  
21 Code, of the District unless:

22 (1) the Commission consents in writing before  
23 approval; or

24 (2) the District provides written evidence that  
25 issuing the public security represents a refunding of outstanding  
26 debt for the purpose of realizing debt service savings in each year  
27 that outstanding obligations are refunded and that results in a



1 cumulative net present value savings of three percent compared to  
2 refunded debt service.

3 Sec. 47. (a) From the effective date of the Act enacting  
4 this section until the date election results under Section 40 are  
5 certified to the Secretary of State, a contract to which the  
6 District is a party must include a provision that the contract is  
7 subject to:

8 (1) review by the System; and

9 (2) termination, including the termination of all  
10 rights, duties, obligations, and liabilities of the District or the  
11 System under the contract, if the contract is assumed by the System.

12 (b) A person is not entitled to compensation for loss or  
13 other damages resulting from the termination of the contract under  
14 Subsection (a)(2).

15 SECTION 3. Not later than the 60th day after the effective  
16 date of this Act, the Texas Commission on Environmental Quality  
17 shall appoint a conservator for the Bexar Metropolitan Water  
18 District as required by Section 34, Chapter 306, Acts of the 49th  
19 Legislature, Regular Session, 1945, as added by this Act.

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

27 (b) The governor, one of the required recipients, has

1 submitted the notice and Act to the Texas Commission on  
2 Environmental Quality.

3 (c) The Texas Commission on Environmental Quality has filed  
4 its recommendations relating to this Act with the governor, the  
5 lieutenant governor, and the speaker of the house of  
6 representatives within the required time.

7 (d) All requirements of the constitution and laws of this  
8 state and the rules and procedures of the legislature with respect  
9 to the notice, introduction, and passage of this Act are fulfilled  
10 and accomplished.

11 SECTION 5. This Act takes effect immediately if it receives  
12 a vote of two-thirds of all the members elected to each house, as  
13 provided by Section 39, Article III, Texas Constitution. If this  
14 Act does not receive the vote necessary for immediate effect, this  
15 Act takes effect September 1, 2011.