

By: Uresti, et al.
(Menendez, Larson)

S.B. No. 341

Substitute the following for S.B. No. 341:

By: Lucio III

C.S.S.B. No. 341

A BILL TO BE ENTITLED

1 AN ACT

2 relating to authorizing the dissolution of the Bexar Metropolitan
3 Water District; providing a penalty.

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

5 ARTICLE 1. FINANCIAL AND OPERATIONAL AUDITS

6 SECTION 1.01. Section 1, Chapter 306, Acts of the 49th
7 Legislature, Regular Session, 1945, is amended to read as follows:

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

12 SECTION 1.02. Chapter 306, Acts of the 49th Legislature,
13 Regular Session, 1945, is amended by adding Sections 1A, 34, 35, 36,
14 37, 38, 39, 40, 41, 42, and 43 to read as follows:

15 Sec. 1A. In this Act:

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

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

19 (3) "Committee" means the Bexar Metropolitan Water
20 District Oversight Committee.

21 (4) "Director" means a Board member.

22 (5) "District" means the Bexar Metropolitan Water
23 District.

24 (6) "System" means a water utility owned by a

1 municipality with a population of more than one million in the area
2 served by the District.

3 Sec. 34. (a) Not later than the 30th day after the
4 effective date of the Act enacting this section, the Commission
5 shall begin an on-site evaluation of the District. The evaluation
6 must include:

7 (1) a complete inventory and evaluation of each
8 distinct water system in the District to determine:

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

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

14 (C) the adequacy of the water supply sources,
15 water storage facilities, and distribution systems located in that
16 water system's service area to supply current and projected demands
17 in that service area;

18 (2) a list of any District assets whose transfer to
19 another appropriate public water utility would be likely to
20 improve:

21 (A) service to the former customers of the
22 District who would be served by that utility; or

23 (B) the District's overall efficiency;

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

26 (A) effective and termination dates;

27 (B) the general scope of the property and

1 services involved;

2 (C) obligations of the District, including
3 financial obligations;

4 (D) how the District benefits from the contract;
5 and

6 (E) whether the District has waived governmental
7 immunity;

8 (4) a list of the following in regard to the District:

9 (A) property;

10 (B) rights, including certificates of
11 convenience and necessity, pumping rights, and any other rights;

12 (C) staff; and

13 (D) internal policies, including employment
14 rules, benefits, and an evaluation of the usefulness and efficacy
15 of each policy;

16 (5) a comprehensive rehabilitation plan for the
17 District that:

18 (A) identifies strategies for restoring the
19 District's financial integrity and developing a system of sound
20 financial management;

21 (B) describes a standard of ethics,
22 professionalism, and openness expected of each Director and
23 employee of the District;

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

26 (D) identifies ways to enhance the District's
27 operational efficiency and improve the District's provision of

1 redundancy in water services; and

2 (E) provides for educating the Board and
3 management personnel on improving management practices and
4 complying with District policy and state and federal laws and
5 regulations;

6 (6) an assessment of the District's ability to provide
7 reliable, cost-effective, quality service to customers, including
8 an assessment of operations compared to the best management
9 practices of modern utilities;

10 (7) a study of the District's current infrastructure
11 improvements, including:

12 (A) personnel for the improvements, including
13 staffing levels of engineers, capital improvement program
14 personnel, and mains and services personnel; and

15 (B) contracts related to any capital
16 improvements; and

17 (8) a financial audit of the District.

18 (b) On commencement of the evaluation, the Commission shall
19 notify the District in writing that the Commission has begun the
20 evaluation and shall specify a time period for completion of the
21 evaluation. The Commission may extend the specified time period
22 for good cause. The District shall cooperate and provide
23 assistance and access to all necessary records, confidential or
24 not, to the Commission.

25 (c) The Commission may contract with utility management
26 consultants, accountants, and other persons as necessary to conduct
27 the evaluation.

1 (d) The Commission may require the District to reimburse the
2 Commission for the reasonable cost of conducting the evaluation.

3 (e) The Commission shall file copies of the completed
4 evaluation with:

5 (1) the committee;

6 (2) the Board; and

7 (3) the lieutenant governor, the speaker of the house
8 of representatives, and the chairs of the house and senate
9 committees with primary oversight over the District.

10 Sec. 35. At the Commission's request, the state auditor's
11 office may audit the District under Chapter 321, Government Code.
12 The District shall reimburse the state auditor's office for the
13 cost of the audit.

14 Sec. 36. The Commission may employ or contract with a person
15 to carry out the duties described by Section 34 of this Act who, at
16 the time of the person's hire:

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

19 (2) is not a Director; and

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

23 Sec. 37. (a) The Commission may employ or contract with
24 additional persons who will report to and assist the Commission if:

25 (1) assistance from District staff is not provided; or

26 (2) the Commission needs special expertise from one or
27 more of the persons.

1 (b) A person employed or contracted with under Section 36 of
2 this Act and any additional persons employed or contracted with
3 under this section are entitled to receive a salary determined by
4 the executive director of the Commission for performing those
5 duties.

6 (c) The District shall pay the compensation of any persons
7 employed or contracted with under this section or Section 36 of this
8 Act.

9 (d) The executive director of the Commission shall set the
10 compensation of the person employed or contracted with under this
11 section or Section 36 of this Act after considering the person's:

- 12 (1) level of expertise in utility management; and
13 (2) certifications and education.

14 Sec. 38. (a) A person employed or contracted with under
15 Section 36 or 37 of this Act is entitled to reimbursement of the
16 reasonable and necessary expenses incurred by that person in the
17 course of performing duties under this Act.

18 (b) The District shall pay the expenses incurred by the
19 persons employed or contracted with under Section 36 or 37 of this
20 Act. The executive director of the Commission shall determine if an
21 expense is reasonable and necessary after considering whether the
22 expense is:

23 (1) necessary to complete the duties assigned by this
24 Act;

25 (2) at or below the cost of a similar expense incurred
26 by other utilities;

27 (3) documented by an invoice, bill, or work order that

1 includes details relating to the:

2 (A) time spent on services; or

3 (B) cost of supplies; and

4 (4) in accordance with procedures used to minimize
5 expenses, including comparing vendor rates or competitive bidding.

6 Sec. 39. The executive director of the Commission may
7 employ or contract with a person to carry out any purpose described
8 by this Act. The District shall reimburse the Commission for all
9 related expenses.

10 Sec. 40. (a) The Commission shall evaluate the condition of
11 the District and determine whether the District has been
12 sufficiently rehabilitated to enable the District to provide
13 reliable, cost-effective, quality service to its customers.

14 (b) If the Commission finds that the District has not been
15 rehabilitated, the Commission may order the District to implement
16 any part of the rehabilitation plan developed under Section 34.

17 (c) If the District fails to comply with a Commission order,
18 the Commission may assess a penalty against the District in the
19 manner provided by Section 13.4151, Water Code.

20 Sec. 41. From the effective date of the Act enacting this
21 section until the date election results are certified to the
22 Secretary of State, the attorney general may not approve any public
23 security, as defined by Chapter 1201, Government Code, of the
24 District unless:

25 (1) the Commission consents in writing before
26 approval; or

27 (2) the District provides written evidence that

1 issuing the public security represents a refunding of outstanding
2 debt for the purpose of realizing debt service savings in each year
3 that outstanding obligations are refunded and that results in a
4 cumulative net present value savings of at least three percent
5 compared to refunded debt service.

6 Sec. 42. (a) From the effective date of the Act enacting
7 this section until the date election results are certified to the
8 Secretary of State, a contract or other agreement entered into,
9 amended, or renewed during that period to which the District is a
10 party must include a provision that the contract or other agreement
11 is subject to:

12 (1) review by the System; and

13 (2) termination by the System at the System's sole
14 discretion, including the termination of all rights, duties,
15 obligations, and liabilities of the District or the System under
16 the contract or other agreement, if the contract or other agreement
17 is assumed by the System.

18 (b) A person or entity is not entitled to compensation for
19 loss or other damages resulting from the termination of the
20 contract or other agreement under Subsection (a)(2) of this
21 section.

22 Sec. 43. From the effective date of the Act enacting this
23 section until the date the election results are certified to the
24 Secretary of State, the District may not dispose of, sell,
25 transfer, assign, impair, or restrict any of the District's rights
26 or assets outside the normal and customary course of business.

1 ARTICLE 2. ELECTION; EFFECTIVE DATE OF ARTICLES 3 AND 4

2 SECTION 2.01. (a) In this article:

3 (1) "Board" means the board of directors of the
4 district.

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

7 (3) "District" means the Bexar Metropolitan Water
8 District.

9 (b) On the next uniform election date the board, after
10 consultation with the secretary of state, shall hold an election in
11 the district on the question of dissolving the district and
12 disposing of the district's assets and obligations. The board shall
13 call the election not later than the 90th day before the date the
14 election is to be held.

15 (c) The order calling the election must state:

16 (1) the nature of the election, including the
17 proposition to appear on the ballot;

18 (2) the date of the election;

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

20 (4) the location of the polling places.

21 (d) The board shall give notice of an election under this
22 section by publishing once a week for two consecutive weeks a
23 substantial copy of the election order in a newspaper with general
24 circulation in the district. The first publication of the notice
25 must appear not later than the 35th day before the date of the
26 beginning of early voting for the election.

27 (e) The ballot for an election under this section must be

1 printed to permit voting for or against the proposition: "The
2 dissolution of the Bexar Metropolitan Water District and the
3 transfer of all the district's assets, obligations, and duties to
4 the water utility owned by the municipality with the largest
5 population in the area served by the district."

6 (f) The board shall certify that a majority of the voters
7 voting in the district have voted:

8 (1) in favor of dissolution; or

9 (2) not in favor of dissolution.

10 (g) If the board fails to call an election on or before the
11 90th day before the date the election is to be held, the commission
12 or its executive director shall file a writ of mandamus and pursue
13 all other legal and equitable remedies available to compel the
14 board to call the election.

15 SECTION 2.02. (a) Not later than the 20th day after the
16 date on which the election results are officially declared, the
17 board shall certify that result to the secretary of state.

18 (b) If the proposition is approved by a majority of the
19 voters voting in the election:

20 (1) Article 3 of this Act does not take effect; and

21 (2) Article 4 of this Act takes effect on the date the
22 results are certified.

23 (c) If a majority of the voters voting in the election do not
24 approve the proposition:

25 (1) Article 3 of this Act takes effect on the date the
26 results are certified; and

27 (2) Article 4 of this Act does not take effect.

1 ARTICLE 2A. ALTERNATE ELECTION PROCEDURES IF ARTICLE 2 ELECTION IS
2 IN VIOLATION

3 SECTION 2A.01. It is the intent of the legislature that the
4 preferred method of election be the method described by Section
5 2.01 of this Act. This article provides an alternate means of
6 conducting the election on the question of dissolving the Bexar
7 Metropolitan Water District if the method described in Section 2.01
8 of this Act cannot be used due to a final, unappealable
9 administrative or judicial decision. It is the intent of the
10 legislature to comply fully with the requirements of the federal
11 Voting Rights Act of 1965 (42 U.S.C. Section 1973 et seq.). It is
12 not the intent of the legislature to influence any preclearance
13 decision made by the U.S. Department of Justice relating to the Act
14 creating this section.

15 SECTION 2A.02. (a) In this article:

16 (1) "Board" means the board of directors of the
17 district.

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

20 (3) "District" means the Bexar Metropolitan Water
21 District.

22 (4) "Voting district" means a subdivision of the
23 district created to elect the district's board of directors.

24 (b) On the next uniform election date following the date of
25 a final, unappealable administrative or judicial decision that any
26 portion of this Act is in violation of the federal Voting Rights Act
27 of 1965 (42 U.S.C. Section 1973 et seq.) or United States

1 Constitution, the board, after consultation with the secretary of
2 state, shall hold an election as provided by this section in the
3 district on the question of dissolving the district and disposing
4 of the district's assets and obligations. The board shall call the
5 election not later than the 90th day before the date the election is
6 to be held.

7 (c) The order calling the election must state:

8 (1) the nature of the election, including the
9 proposition to appear on the ballot;

10 (2) the date of the election;

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

12 (4) the location of the polling places.

13 (d) The board shall give notice of an election under this
14 section by publishing once a week for two consecutive weeks a
15 substantial copy of the election order in a newspaper with general
16 circulation in the district. The first publication of the notice
17 must appear not later than the 35th day before the date of the
18 beginning of early voting for the election.

19 (e) The ballot for an election under this section must be
20 printed to permit voting for or against the proposition: "The
21 dissolution of the Bexar Metropolitan Water District and the
22 transfer of all the district's assets, obligations, and duties to
23 the water utility owned by the municipality with the largest
24 population in the area served by the district."

25 (f) The election shall be held in numbered voting districts
26 established by the board. The board shall draw each voting district
27 to reflect population changes from the latest decennial census and

1 to conform with state law, the federal Voting Rights Act of 1965 (42
2 U.S.C. Section 1973 et seq.), and any applicable court order.

3 (g) The board shall certify the election results for each
4 voting district. The board shall then certify that a majority of
5 the voting districts have voted:

6 (1) in favor of dissolution; or

7 (2) not in favor of dissolution.

8 (h) If the board fails to call an election on or before the
9 90th day before the date the election is to be held, the commission
10 or its executive director shall file a writ of mandamus and pursue
11 all other legal and equitable remedies available to compel the
12 board to call the election.

13 SECTION 2A.03. (a) Not later than the 20th day after the
14 date on which the election results are officially declared, the
15 board shall certify that result to the secretary of state.

16 (b) If the proposition is approved by a majority of the
17 voting districts in the election:

18 (1) Article 3 of this Act does not take effect; and

19 (2) Article 4 of this Act takes effect on the date the
20 results are certified.

21 (c) If a majority of the voting districts in the election do
22 not approve the proposition:

23 (1) Article 3 of this Act takes effect on the date the
24 results are certified; and

25 (2) Article 4 of this Act does not take effect.

ARTICLE 3. CHANGES TO THE BEXAR METROPOLITAN WATER DISTRICT IF
VOTERS DO NOT DISSOLVE THE DISTRICT UNDER ARTICLE 2

SECTION 3.01. Section 8, Chapter 306, Acts of the 49th
Legislature, Regular Session, 1945, is amended to read as follows:

Sec. 8. (a) ~~[-]~~ The seven ~~[five (5)]~~ members of the Board of
Directors are ~~[shall hereafter be]~~ elected to staggered two-year
terms in an election held on the uniform election date in November.
Directors are elected from numbered single-member districts
established by the Board. The Board shall revise each
single-member district after each decennial census to reflect
population changes and to conform with state law, the federal
Voting Rights Act of 1965 (42 U.S.C. Section 1973 et seq.), and any
applicable court order ~~[for a term of six (6) years each, provided~~
~~that an election for two (2) Directors for a term of six (6) years~~
~~shall be held on the first Tuesday in April, 1954, the terms of~~
~~three (3) members of the present Board shall be, and are, hereby,~~
~~extended to the first Tuesday in April, 1957, and the present~~
~~Directors shall determine such three (3) by lot. Three (3)~~
~~Directors shall be elected on the first Tuesday in April, 1957, and~~
~~two (2) Directors and three (3) Directors, alternately, shall be~~
~~elected each three (3) years thereafter on the first Tuesday in~~
~~April as the six-year terms expire].~~ At an election of Directors,
the candidate from each single-member district who receives ~~[The~~
~~two (2) or three (3) persons, respectively, receiving]~~ the greatest
number of votes is ~~[shall be declared]~~ elected to represent that
single-member district. Each Director shall hold office until his
successor is ~~[shall have been]~~ elected or appointed and has ~~[shall~~

1 ~~have]~~ qualified.

2 (a-1) A person is not eligible to serve as a Director for
3 more than three terms or for more than a total of seven years of
4 service.[+]

5 (b) Such [~~such~~] elections shall be called, conducted and
6 canvassed in the manner provided by the Election Code. [~~Chapter 25,~~
7 ~~General Laws of the Thirty-ninth Legislature, Regular Session,~~
8 ~~1925, and any amendments thereto,~~]

9 (c) The [~~the~~] Board of Directors shall fill all vacancies on
10 the Board by appointment and such appointees shall hold office
11 until a successor elected at the next scheduled election date has
12 qualified. [~~for the unexpired term for which they were appointed,~~]

13 (d) Any four [~~any three~~] members of the Board are [~~shall~~
14 ~~constitute~~] a quorum for the adoption or [~~of~~] passage of any
15 resolution or order or the transaction of any business of the
16 District.[+]

17 (e) A Director must [~~Directors succeeding the first Board,~~
18 ~~whether now or hereafter elected, shall]~~ be a qualified voter of the
19 single-member district from which the Director is elected [~~resident~~
20 ~~electors of Bexar County, Texas, and owners of taxable property~~
21 ~~within the area comprising said District, and shall organize in~~
22 ~~like manner].~~

23 (f) A payment to a Director for fees of office under Section
24 49.060, Water Code, may not be made for a meeting that occurs in a
25 different fiscal year from the one in which the payment is made.

26 SECTION 3.02. Section 33A, Chapter 306, Acts of the 49th
27 Legislature, Regular Session, 1945, is amended by amending

1 Subsection (c) and adding Subsection (g) to read as follows:

2 (c) The oversight committee is comprised of seven [5]
3 members appointed as follows [~~to represent the following members~~]:

4 (1) two Senators who represent Senate districts that
5 include territory within the Bexar Metropolitan Water District,
6 [~~the Senator sponsor of this Act, or, in the event this Senator~~
7 ~~cannot serve, a Senator~~] appointed by the Lieutenant Governor, who
8 shall also designate one of the Senators as co-chair;

9 (2) two Representatives who represent [~~the~~] House
10 districts that include territory within the District, [~~author of~~
11 ~~this Act, or, in the event this Representative cannot serve, a~~
12 ~~Representative~~] appointed by the Speaker of the Texas House of
13 Representatives, who shall also designate one of the
14 Representatives as co-chair;

15 (3) one member with special expertise in the operation
16 of public water utilities appointed by the Governor;

17 (4) one member appointed by the Governor to represent
18 the public; and

19 (5) one [~~a~~] member of the Bexar County Commissioners
20 Court who represents a precinct in which customers of the District
21 reside.

22 (g) On or before December 31, 2012, the oversight committee
23 shall provide a report under Subsection (e) of this section to the
24 legislature. The committee is abolished and this section expires
25 January 1, 2013.

26 SECTION 3.03. Chapter 306, Acts of the 49th Legislature,
27 Regular Session, 1945, is amended by adding Sections 8A, 8B, 8C,

1 10A, and 10B to read as follows:

2 Sec. 8A. (a) To be eligible to be a candidate for or to be
3 elected or appointed as a Director, a person must have:

4 (1) resided continuously in the single-member
5 district that the person seeks to represent for 12 months
6 immediately preceding the date of the regular filing deadline for
7 the candidate's application for a place on the ballot;

8 (2) viewed the open government training video provided
9 by the attorney general and provided to the Board a signed affidavit
10 stating that the candidate viewed the video;

11 (3) obtained 200 signatures from individuals living in
12 the District; and

13 (4) paid a filing fee of \$250 or filed a petition in
14 lieu of the filing fee that satisfies the requirements prescribed
15 by Section 141.062, Election Code.

16 (b) In this subsection, "political contribution" and
17 "specific-purpose committee" have the meanings assigned by Section
18 251.001, Election Code. A Director or a candidate for the office of
19 Director may not knowingly accept political contributions from a
20 person or organization that in the aggregate exceed \$500 in
21 connection with each election in which the candidate is involved.
22 For purposes of this subsection, a contribution to a
23 specific-purpose committee for the purpose of supporting a
24 candidate for the office of Director, opposing the candidate's
25 opponent, or assisting the candidate as an officeholder is
26 considered to be a contribution to the candidate.

27 Sec. 8B. (a) A person who is elected or appointed to and

1 qualifies for office as a Director on or after the effective date of
2 this section may not vote, deliberate, or be counted as a member in
3 attendance at a meeting of the Board until the person completes a
4 training program on District management issues. The training
5 program must provide information to the person regarding:

6 (1) the enabling legislation that created the
7 District;

8 (2) the operation of the District;

9 (3) the role and functions of the Board;

10 (4) the rules of the Board;

11 (5) the current budget for the Board;

12 (6) the results of the most recent formal audit of the
13 Board;

14 (7) the requirements of the:

15 (A) open meetings law, Chapter 551, Government
16 Code;

17 (B) public information law, Chapter 552,
18 Government Code; and

19 (C) administrative procedure law, Chapter 2001,
20 Government Code;

21 (8) the requirements of the conflict of interest laws
22 and other laws relating to public officials; and

23 (9) any applicable ethics policies adopted by the
24 Board or the Texas Ethics Commission.

25 (b) The Commission may create an advanced training program
26 designed for a person who has previously completed a training
27 program described by Subsection (a) of this section. If the

1 Commission creates an advanced training program under this
2 subsection, a person who completes that advanced training program
3 is considered to have met the person's obligation under Subsection
4 (a) of this section.

5 (c) Each Director who is elected or appointed on or after
6 the effective date of this section shall complete a training
7 program described by Subsection (a) or (b) of this section at least
8 once in each term the Director serves.

9 (d) The Board shall adopt rules regarding the completion of
10 the training program described by Subsection (a) or (b) of this
11 section by a person who is elected or appointed to and qualifies for
12 office as a Director before the effective date of this section. A
13 Director described by this subsection who does not comply with
14 Board rules is considered incompetent as to the performance of the
15 duties of a Director in any action to remove the Director from
16 office.

17 (e) A Director may not:

18 (1) accept or solicit a gift, favor, or service, the
19 value of which exceeds \$50 per gift, favor, or service, that:

20 (A) might reasonably influence the Director in
21 the discharge of an official duty; or

22 (B) the Director knows or should know is being
23 offered with the intent to influence the Director's official
24 conduct;

25 (2) accept other employment or engage in a business or
26 professional activity that the Director might reasonably expect
27 would require or induce the Director to disclose confidential

1 information acquired by reason of the official position;

2 (3) accept other employment or compensation that could
3 reasonably be expected to impair the Director's independence of
4 judgment in the performance of the Director's official duties;

5 (4) make personal investments that could reasonably be
6 expected to create a substantial conflict between the Director's
7 private interest and the interest of the District;

8 (5) intentionally or knowingly solicit, accept, or
9 agree to accept any benefit for having exercised the Director's
10 official powers or performed the Director's official duties in
11 favor of another; or

12 (6) have a personal interest in an agreement executed
13 by the District.

14 (f) Not later than April 30 each year, a Director shall file
15 with the Bexar County clerk a verified financial statement
16 complying with Sections 572.022, 572.023, 572.024, and 572.0252,
17 Government Code. The District shall keep a copy of a financial
18 statement filed under this section in the main office of the
19 District.

20 Sec. 8C. (a) A Director may be recalled for:

21 (1) incompetency or official misconduct as defined by
22 Section 21.022, Local Government Code;

23 (2) conviction of a felony;

24 (3) incapacity;

25 (4) failure to file a financial statement as required
26 by Section 8B(f) of this Act;

27 (5) failure to complete a training program described

1 by Section 8B(a) or (b) of this Act; or

2 (6) failure to maintain residency in the District.

3 (b) If at least 10 percent of the registered voters in a
4 single-member voting district of the District submit a petition to
5 the Board requesting the recall of the Director who serves that
6 single-member voting district, the Board, not later than the 10th
7 day after the date the petition is submitted, shall mail a written
8 notice of the petition and the date of its submission to each
9 registered voter in the single-member voting district.

10 (c) Not later than the 30th day after the date a petition
11 requesting the recall of a Director is submitted, the Board shall
12 order an election on the question of recalling the Director.

13 (d) A recall election under this section may be held on any
14 uniform election date.

15 (e) If a majority of the voters of a single-member voting
16 district voting at an election held under this section favor the
17 recall of the Director who serves that single-member voting
18 district, the Director is recalled and ceases to be a Director.

19 Sec. 10A. All Board reimbursements and expenditures must be
20 approved by the Board in a regularly scheduled meeting.

21 Sec. 10B. The Board may not select the same auditor to
22 conduct an audit required by Section 49.191, Water Code, for more
23 than three consecutive annual audits.

24 SECTION 3.04. (a) Section 8, Chapter 306, Acts of the 49th
25 Legislature, Regular Session, 1945, as amended by this Act, applies
26 only to a member of the board of directors of the Bexar Metropolitan
27 Water District who is elected to the board on or after the effective

1 date of this Act.

2 (b) Section 8A, Chapter 306, Acts of the 49th Legislature,
3 Regular Session, 1945, as added by this Act, applies only to a
4 member of the board of directors of the Bexar Metropolitan Water
5 District who is elected to the board on or after the effective date
6 of this Act. A director who is elected before the effective date of
7 this Act is governed by the law in effect when the director was
8 elected, and the former law is continued in effect for that purpose.

9 (c) For two of the numbered single-member district
10 director's positions that expire in 2012, the Bexar Metropolitan
11 Water District shall call and hold an election on a uniform election
12 date in that year to elect the directors for those positions for
13 terms that expire on the uniform election date in November 2013.
14 For the other two director's positions that expire in 2012, the
15 district shall call and hold an election on the same uniform
16 election date in that year to elect the directors for those
17 positions for terms that expire on the uniform election date in
18 November 2014. The district shall determine by lot which
19 single-member districts shall elect directors to serve one-year
20 terms and which shall elect directors to serve two-year terms.

21 ARTICLE 4. TRANSFER OF DISTRICT ASSETS AND LIABILITIES IF VOTERS

22 DISSOLVE THE BEXAR METROPOLITAN WATER DISTRICT UNDER ARTICLE 2

23 SECTION 4.01. Chapter 306, Acts of the 49th Legislature,
24 Regular Session, 1945, is amended by adding Sections 50, 51, 52, 53,
25 54, and 55 to read as follows:

26 Sec. 50. (a) The term of each person who is serving as a
27 Director of the District on the date the election results are

1 certified to the Secretary of State as authorized by Article 2 of
2 the Act enacting this section expires on that date.

3 (b) On the date the election results are certified to the
4 Secretary of State, the System assumes control of the operation and
5 management of the District, subject to Sections 52 and 53 of this
6 Act and other law applicable to the System.

7 (c) Not later than the 90th day after the date the election
8 results are certified to the Secretary of State, the Commission, in
9 consultation with the committee, shall transfer or assign all:

10 (1) rights and duties of the District, including
11 existing contracts, duties, assets, and obligations of the
12 District;

13 (2) files, records, and accounts of the District,
14 including those that pertain to the control, finances, management,
15 and operation of the District; and

16 (3) permits, approvals, and certificates necessary to
17 provide water services.

18 (d) To the extent that the transfer of an item listed in
19 Subsection (c) of this section requires the approval of a state
20 agency, the state agency shall grant approval without additional
21 notice or hearing.

22 (e) After the Commission has transferred the property,
23 assets, and liabilities as prescribed by this section, the
24 Commission shall enter an order dissolving the District.

25 Sec. 51. (a) This Act does not enhance or harm the position
26 of a contracting party.

27 (b) No law or charter provision may be construed to limit

1 the System's performance of an obligation under a contract
2 transferred or assigned to the System as a result of the dissolution
3 of the District, if revenue from the contract was pledged wholly or
4 partly to pay debt service on revenue bonds approved by the attorney
5 general.

6 Sec. 52. (a) Not later than five years after the date the
7 election results were certified in favor of dissolution under
8 Article 2 of the Act enacting this section, the System shall
9 integrate the services and infrastructure of the District into the
10 System in a reasonable and orderly manner. The Commission for good
11 cause may grant an extension to complete integration of not more
12 than three additional years. The System shall base the integration
13 on the consideration of relevant information, including:

- 14 (1) the location and condition of the infrastructure;
15 (2) debt obligations;
16 (3) prudent utility practices and fiscal policies;
17 (4) costs and revenue; and
18 (5) potential impacts on the customers of the District
19 and the System.

20 (b) During the integration period described by Subsection
21 (a) of this section, the System shall provide an annual report on
22 the progress of integration to the Commission, including the status
23 of any relevant contract provision.

24 (c) Until the date specified in Subsection (a) of this
25 section, the System may operate the former District as a special
26 project under the System's existing senior lien revenue bond
27 ordinances.

1 (d) Once the Commission has transferred the assets,
2 obligations, and duties to the System, the System shall provide
3 affordable and reliable water services to all of the former
4 ratepayers of the District under the System's certificate of
5 convenience and necessity.

6 (e) After the integration described by Subsection (a) of
7 this section is complete, the System shall provide water service to
8 former ratepayers of the District in the same manner the System
9 provides water service to other ratepayers of the System. The
10 integration is considered complete if:

11 (1) the areas of service located in the former
12 District are no longer operated as a special project within the
13 System;

14 (2) the ratepayers of the former District pay the same
15 rates for services provided by the System as other similarly
16 situated ratepayers of the System; and

17 (3) the ratepayers of the former District receive
18 water service that meets the requirements of the Commission.

19 (f) If the System fails to integrate the services and
20 infrastructure of the District into the System in accordance with
21 Subsection (a) of this section, the Commission may find the System
22 in violation of the obligation under the System's certificate of
23 convenience and necessity to provide continuous and adequate
24 service. The Commission may bring an enforcement action against
25 the System, including the imposition of an administrative penalty
26 under Section 13.4151, Water Code.

27 Sec. 53. (a) For a 24-month period following the transfer

1 of the employment of any employee of the former District, the System
2 may not terminate that employee, except for cause, as defined by the
3 System's standards of conduct for all employees, if the employee:

4 (1) is vested in the retirement program of the
5 District on the effective date of this Act; and

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

8 (b) For a five-year period following the transfer of the
9 employment of any employee of the former District, the System may
10 not terminate that employee, except for cause, as defined by the
11 System's standards of conduct for all employees, if:

12 (1) the employee meets the requirements of Subsections
13 (a)(1) and (2) of this section; and

14 (2) the sum of the years of service of the employee and
15 the employee's age is equal to or greater than 80.

16 (c) An employee who qualifies under Subsection (a) or (b) of
17 this section and who is terminated by the System has the same
18 opportunity for appeal as a person employed by the System who is not
19 an employee of the former District.

20 (d) The System is not required to employ an employee of the
21 District if that person was formerly terminated from, or resigned
22 in lieu of termination from, the System.

23 Sec. 54. A state agency at which an administrative or
24 enforcement action is pending against the District shall grant the
25 System special consideration and reasonable extensions to identify
26 and resolve the action in a manner satisfactory to the agency.

27 Sec. 55. (a) In this section, "advisory committee" means a

1 committee appointed under Subsection (b) of this section.

2 (b) Not later than the 60th day after the date the District
3 is dissolved under Section 50 of this Act, the System shall work
4 cooperatively with the commissioners court of each county in which
5 the former District was wholly or partly located to establish an
6 advisory committee to advise the System regarding the integration
7 of the services and infrastructure of the former District,
8 including service integration issues and the delivery of water
9 services by the System, in specific areas or water systems located
10 in the area outside the corporate boundaries of the largest
11 municipality served by the System.

12 (c) The advisory committee shall include at least one
13 representative from each county served by the System who resides in
14 the boundaries of the former District or the owner or operator of a
15 business located in the boundaries of the former District.

16 (d) Until the integration described by Section 52 of this
17 Act is complete, the board of directors of the System shall:

18 (1) consult with the advisory committee about the
19 matters described by Subsection (b) of this section at least
20 quarterly, during a regularly scheduled or specially called board
21 meeting of the System; and

22 (2) on request by the advisory committee chair,
23 provide members of the advisory committee an opportunity to address
24 the System's board of trustees on matters relating to the duties of
25 the advisory committee.

26 ARTICLE 5. DEADLINES; NOTICE; EFFECTIVE DATE OF ACT

27 SECTION 5.01. If a deadline established in Articles 1

1 through 4 of this Act cannot be met because of a requirement imposed
2 by the federal Voting Rights Act of 1965 (42 U.S.C. Section 1973c or
3 any other provisions of that act), the deadline is the next
4 available date after the requirement is met.

5 SECTION 5.02. (a) The legal notice of the intention to
6 introduce this Act, setting forth the general substance of this
7 Act, has been published as provided by law, and the notice and a
8 copy of this Act have been furnished to all persons, agencies,
9 officials, or entities to which they are required to be furnished
10 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
11 Government Code.

12 (b) The governor, one of the required recipients, has
13 submitted the notice and Act to the Texas Commission on
14 Environmental Quality.

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

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

23 SECTION 5.03. Except as otherwise provided by Article 2 of
24 this Act, this Act takes effect immediately if it receives a vote of
25 two-thirds of all the members elected to each house, as provided by
26 Section 39, Article III, Texas Constitution. If this Act does not
27 receive the vote necessary for immediate effect, this Act takes

C.S.S.B. No. 341

1 effect September 1, 2011.