

By: Hinojosa

S.B. No. 1423

A BILL TO BE ENTITLED

AN ACT

relating to the supervision of water districts by the Texas Commission on Environmental Quality.

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

SECTION 1. Section 12.081(a), Water Code, is amended to read as follows:

(a) The powers and duties of all districts and authorities created under Article III, Section 52 and Article XVI, Section 59 of the Texas Constitution are subject to the continuing right of supervision of the State of Texas by and through the commission or its successor, and this supervision may include but is not limited to the authority to:

(1) inquire into the qualifications [~~competence, fitness, and reputation~~] of the officers and directors of any district or authority;

(2) require, on its own motion or on complaint by any person, audits or other financial information, inspections, evaluations, and engineering reports;

(3) issue subpoenas for witnesses to carry out its authority under this subsection;

(4) institute investigations and hearings that shall be conducted by the State Office of Administrative Hearings [~~using examiners appointed by the commission~~];

(5) issue rules necessary to supervise the districts

1 and authorities, except that such rules shall not apply to water  
2 quality ordinances adopted by any river authority which meet or  
3 exceed minimum requirements established by the commission; and

4 (6) the right of supervision granted herein shall not  
5 apply to matters relating to electric utility operations.

6 SECTION 2. Subchapter D, Chapter 12, Water Code, is amended  
7 by adding Section 12.0815 to read as follows:

8 Sec. 12.0815. SUSPENSION OF OPERATIONS. (a) This section  
9 applies to a district created under Section 59, Article XVI, Texas  
10 Constitution.

11 (b) The commission shall give written notice to a district  
12 that has failed to follow a court order or commission directive that  
13 the district must comply with the court order or commission  
14 directive.

15 (c) Not later than the 30th day after the date the district  
16 receives the notice under Subsection (b), the commission may  
17 suspend operations of the district if the commission has not  
18 received a response to the notice from the district, or has received  
19 an inadequate response.

20 (d) If the commission suspends operations of a district  
21 under this section, the commission shall request that the attorney  
22 general bring suit for the appointment of a receiver to collect the  
23 assets and carry on the business of the district.

24 (e) The court shall appoint a receiver if an appointment is  
25 necessary:

26 (1) to guarantee the collection of assessments, fees,  
27 penalties, or interest;

1           (2) to guarantee the continuous and adequate service  
2 to the customers of the district; or

3           (3) to prevent continued or repeated violation of the  
4 court order or commission directive.

5           (f) The receiver shall execute a bond to assure the proper  
6 performance of the receiver's duties in an amount to be set by the  
7 court.

8           (g) After appointment and execution of bond, the receiver  
9 shall take possession of the assets of the district specified by the  
10 court. Until discharged by the court, the receiver shall perform  
11 the duties that the court directs to preserve the assets and carry  
12 on the business of the district and shall strictly observe the court  
13 order involved.

14           (h) On a showing of good cause by the district, the court may  
15 dissolve the receivership and order the assets and control of the  
16 business returned to the district.

17           SECTION 3. Sections 49.102(e) and (f), Water Code, are  
18 amended to read as follows:

19           (e) If a majority of the votes cast in the election favor the  
20 creation of the district, then the temporary board shall declare  
21 that the district is created and enter the result in its minutes.  
22 If a majority of the votes cast in the election are against the  
23 creation of the district, the temporary board shall declare that  
24 the district was defeated and enter the result in its minutes. A  
25 copy of the order shall be filed with the commission not later than  
26 the 30th day after the date of the election.

27           (f) The order canvassing the results of the confirmation

1 election shall contain a description of the district's boundaries  
2 and shall be filed with the executive director and in the deed  
3 records of the county or counties in which the district is located  
4 not later than the 30th day after the date of the election.

5 SECTION 4. Section 49.195(a), Water Code, is amended to  
6 read as follows:

7 (a) The executive director may review the audit report of  
8 each district. After reviewing the audit report, the executive  
9 director may request additional information from the district. The  
10 district shall provide the additional information not later than  
11 the 60th day after the date the request was received, unless the  
12 executive director extends the time allowed for the district to  
13 provide additional information for good cause.

14 SECTION 5. Section 49.196(a), Water Code, is amended to  
15 read as follows:

16 (a) The executive director may review and investigate a  
17 district's financial records and may conduct an on-site audit of a  
18 district's financial information. The executive director shall  
19 have access to all vouchers, receipts, district fiscal and  
20 financial records, and other district records the executive  
21 director considers necessary.

22 SECTION 6. This Act takes effect September 1, 2017.