

Jon Niermann, *Chairman*  
Emily Lindley, *Commissioner*  
Toby Baker, *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

May 22, 2019

The Honorable Dan Patrick  
Lieutenant Governor of Texas  
Capitol Station  
PO Box 12068  
Austin, Texas 78711

Re: Responsibility of the Texas Commission on Environmental Quality (TCEQ) Pursuant to Article XVI, Section 59(d), Texas Constitution

Senate Bill (SB) 2552, as Filed by Senator Juan Hinojosa - Relating to the administration of the Agua Special Utility District; creating a criminal offense.

Dear Governor Patrick:

The following comments are provided pursuant to the Constitutional requirements referenced above. Under those requirements, the TCEQ must submit, to the Governor, Lieutenant Governor and Speaker of the House of Representatives, the TCEQ's recommendations on specific legislation affecting water districts. We recommend that these comments be considered in the evaluation of the proposed legislation.

The bill amends Chapter 7201, Special District Local Laws Code, related to the Agua Special Utility District (District). The bill specifies that a director shall file the financial statement required of state officers with the Texas Ethics Commission. The bill specifies that a director, in connection with a vote or decision by the board, is considered to have a substantial interest in a business entity if a person related to the director within the third degree by consanguinity or affinity has a substantial interest in the business entity. The bill specifies the grounds for removal of a director from the board of directors. The bill specifies prohibited conduct for directors and District employees, the eligibility of director and general managers to serve, and the general manager's duties. The bill requires the District to establish and post on the District's Internet website a database of District check register reports.

The database must include the amount, date, description, payor, and payee of the expenditures, and, if applicable, parties to the contract. The bill specifies that not later than the third day after the date the accountant finalizes the audit of the District, the District shall publish the audit on the District's Internet website. The bill requires the District to maintain and update monthly an Internet website. Not later than 72 hours before a meeting held by the District, the District shall publish on the District's Internet website the agenda for the meeting.

Hon. Dan Patrick  
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May 22, 2019

Not later than 72 hours after the date the District adopts the minutes of a meeting held by the District, the District shall publish on the District's Internet website, the minutes adopted by the District.

Sincerely,



Cari-Michel La Caille, Director  
Water Supply Division

cc: Honorable Eddie Lucio, Jr., Chairman, Senate Intergovernmental Relations Committee  
Senator Juan Hinojosa, Texas Senate

LETTER OF TRANSMITTAL  
TEXAS SENATE  
STATE OF TEXAS

SB 2552

Bill Number

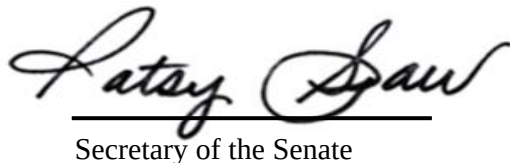
TO: The Honorable Governor of Texas

SUBJECT: A Bill Relating to a Conservation and Reclamation District

This is to transmit to you and the Texas Commission on Environmental Quality copies of a bill relating to a conservation and reclamation district and copies of the notice of intention to introduce the bill. One copy is for your files and one for you to forward to the Texas Commission on Environmental Quality, under Section 59(d), Article XVI, Constitution of the State of Texas.

4/23/2019

Date transmitted to  
Governor's Office



Secretary of the Senate

TO: Texas Commission on Environmental Quality

SUBJECT: A Bill Relating to a Conservation and Reclamation District

This is to forward to you a copy of a bill relating to conservation and reclamation district and a copy of the notice of intention to introduce the bill.

April 24, 2019

Date transmitted to  
Texas Commission on Environmental Quality



Governor

TO: The Honorable President of the Senate  
The Honorable Speaker of the House of Representatives  
The Honorable Governor of Texas

SUBJECT: A Bill Relating to a Conservation and Reclamation District

Attached are recommendations of the Texas Commission on Environmental Quality in compliance with Section 59(d), Article XVI, Constitution of the State of Texas.



Texas Commission on Environmental Quality

By: Hinojosa

S.B. No. 2552

A BILL TO BE ENTITLED

AN ACT

relating to the administration of the Agua Special Utility District; creating a criminal offense.

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

SECTION 1. Subchapter B, Chapter 7201, Special District Local Laws Code, is amended by adding Sections 7201.055, 7201.056, and 7201.057 to read as follows:

Sec. 7201.055. FILING OF FINANCIAL STATEMENT BY DIRECTOR.

(a) A director shall file the financial statement required of state officers under Subchapter B, Chapter 572, Government Code, with the Texas Ethics Commission.

(b) Subchapter B, Chapter 572, Government Code:

(1) applies to a director as if the director were a state officer; and

(2) governs the contents, timeliness of filing, and public inspection of a statement filed under Subsection (a).

(c) A director commits an offense if the director fails to file the statement required by Subsection (a). An offense under this subsection is a Class B misdemeanor.

Sec. 7201.056. SUBSTANTIAL BUSINESS INTEREST. For purposes of Chapter 171, Local Government Code, a director, in connection with a vote or decision by the board, is considered to have a substantial interest in a business entity if a person related to the director within the third degree by consanguinity or affinity, as

determined under Chapter 573, Government Code, has a substantial interest in the business entity.

Sec. 7201.057. GROUNDS FOR REMOVAL. A director may be removed from the board if the director:

(1) does not have at the time of appointment the qualifications required by Sections 7201.052(b) and (c);

(2) does not complete the initial board training required by Section 7201.0512;

(3) does not complete the education program required by Section 7201.054;

(4) does not meet the eligibility requirements under Section 7201.072; or

(5) fails to comply with Section 7201.071.

SECTION 2. Chapter 7201, Special District Local Laws Code, is amended by adding Subchapter B-1 to read as follows:

SUBCHAPTER B-1. DISTRICT ADMINISTRATION

Sec. 7201.071. PROHIBITED CONDUCT FOR DIRECTORS AND DISTRICT EMPLOYEES. A director or district employee may not:

(1) accept or solicit any gift, favor, or service that:

(A) might reasonably influence the director or employee in the discharge of an official duty; or

(B) the director or employee knows or should know is offered with the intent to influence the director's or employee's official conduct;

(2) accept other employment or engage in a business or professional activity that the director or employee might

1 reasonably expect would require or induce the director or employee  
2 to disclose confidential information acquired in the course of the  
3 director's or employee's duties under this chapter;

4 (3) accept other employment or compensation that could  
5 reasonably be expected to impair the director's or employee's  
6 independent judgment in the performance of the director's or  
7 employee's duties under this chapter;

8 (4) make personal investments that could reasonably be  
9 expected to create a substantial conflict between the director's or  
10 employee's private interest and the interest of the district;

11 (5) intentionally or knowingly solicit, accept, or  
12 agree to accept a benefit for the director's or employee's exercise  
13 of powers under this chapter or performance of duties under this  
14 chapter in favor of a third party; or

15 (6) have a personal interest in an agreement executed  
16 by the district.

17 Sec. 7201.072. ELIGIBILITY OF DIRECTOR AND GENERAL MANAGER.

18 (a) A person is not eligible to serve as a director or general  
19 manager of the district if the person or the person's relative  
20 within the third degree by consanguinity or affinity, as determined  
21 by Chapter 573, Government Code:

22 (1) received 10 percent or more of gross income for the  
23 previous year from a business entity or other organization, other  
24 than a governmental entity, that receives money from the district;

25 (2) is employed by or participates in the management  
26 of a business entity or other organization, other than a  
27 governmental entity, that receives money from the district;

1           (3) directly or indirectly owns or controls more than  
2 a 10 percent interest in the fair market value of a business or  
3 other organization that receives money from the district;

4           (4) serves as a corporate officer or member of the  
5 board of directors of a business entity or other organization that  
6 receives money from the district;

7           (5) is a creditor, debtor, or guarantor in an amount of  
8 \$5,000 or more of a person or business entity that receives money  
9 from the district;

10          (6) uses or receives a substantial amount of tangible  
11 goods, services, or money from the district other than compensation  
12 or reimbursement authorized by law; or

13          (7) is required to register as a lobbyist under  
14 Chapter 305, Government Code, because of the person's activities  
15 for compensation on behalf of a profession related to the operation  
16 of the district.

17          (b) A person applying to serve as general manager of the  
18 district shall disclose any potential violations of Subsection (a)  
19 before accepting the position of general manager.

20          Sec. 7201.073. GENERAL MANAGER; DUTIES. (a) The board  
21 shall employ a person with prior experience and training as general  
22 manager.

23          (b) The duties of the general manager include:

24               (1) managing the overall strategy and operations of  
25 the district's projects, services, budget, finances, and community  
26 relations;

27               (2) consulting with, advising, and supporting the

1 board to efficiently accomplish the purposes of the district and to  
2 ensure compliance with all regulatory, financing, and legal  
3 requirements;

4 (3) assisting the board in planning, developing, and  
5 implementing policies to accomplish the purposes of the district;

6 (4) developing and implementing policies to improve  
7 the district's communication with the district's service community;

8 (5) providing leadership and supervision to district  
9 employees;

10 (6) creating and maintaining organizational charts to  
11 improve the district's effectiveness;

12 (7) coordinating and developing short-term and  
13 long-term goals for the district;

14 (8) monitoring current district projects and  
15 prioritizing future district projects;

16 (9) evaluating contracts, grants, and commitments as  
17 authorized by the board;

18 (10) planning, organizing, and directing district  
19 programs and services, evaluating the results of those programs and  
20 services, and recommending policies, procedures, and board actions  
21 based on that evaluation;

22 (11) employing all persons necessary for the proper  
23 handling of the business and operation of the district and  
24 determining the compensation of those employees; and

25 (12) performing other general responsibilities as  
26 determined by the board.

27 (c) The board may assign the duties under Subsection (b)



1 only to the general manager. The board may not assign the duties to  
2 any other person.

3 (d) The general manager is an employee of the district. The  
4 general manager serves at the pleasure of and reports only to the  
5 board.

6 (e) The board shall determine the compensation and terms of  
7 employment for the general manager.

8 (f) The board may increase the compensation of the general  
9 manager in an amount not to exceed 10 percent of the amount of the  
10 general manager's compensation immediately before the effective  
11 date of the increase.

12 (g) If the board enters into an employment contract with the  
13 general manager, the term of the contract may not exceed two years.

14 (h) It is a ground for termination of the general manager if  
15 the general manager fails to disclose any potential violations of  
16 Section 7201.072 as required by that section.

17 SECTION 3. Subchapter C, Chapter 7201, Special District  
18 Local Laws Code, is amended by adding Section 7201.104 to read as  
19 follows:

20 Sec. 7201.104. SEARCHABLE DISTRICT EXPENDITURE DATABASE.

21 (a) The district shall establish and post on the district's  
22 Internet website a database of district check register reports,  
23 including district expenditures and contracts. The database must  
24 include the amount, date, description, payor, and payee of the  
25 expenditures, and, if applicable, parties to the contract.

26 (b) The district shall prominently display a link to the  
27 database established under this section on the district's Internet

1 website. The information provided in the district check register  
2 reports must be updated monthly.

3 (c) The district shall keep in the database information  
4 required by this section related to an adopted budget until the  
5 third anniversary of the date the budget was adopted.

6 SECTION 4. Section 7201.201, Special District Local Laws  
7 Code, is amended by adding Subsection (c) to read as follows:

8 (c) Not later than the third day after the date the  
9 accountant finalizes the audit required by this section, the  
10 district shall publish the audit on the district's Internet  
11 website.

12 SECTION 5. Section 7201.204, Special District Local Laws  
13 Code, is amended to read as follows:

14 Sec. 7201.204. NEWSLETTER, WEBSITE, AND ANNUAL FINANCIAL  
15 INFORMATION. (a) The district shall maintain and update monthly an  
16 Internet website with current information concerning ~~[agendas,~~  
17 ~~minutes,~~ policies, monthly financial information concerning  
18 revenues and expenses, and monthly ~~[quarterly]~~ summaries.

19 (b) Not later than 72 hours before a meeting held by the  
20 district, the district shall publish on the district's Internet  
21 website the agenda for the meeting.

22 (c) Not later than 72 hours after the date the district  
23 adopts the minutes of a meeting held by the district, the district  
24 shall publish on the district's Internet website the minutes  
25 adopted by the district.

26 (d) The district shall provide information, including  
27 summary financial information based on the preceding year's annual

audit, to district customers at an annual meeting.

SECTION 6. Not later than January 1, 2020:

(1) a member of the board of directors of the Agua Special Utility District shall file a financial statement as required by Section 7201.055, Special District Local Laws Code, as added by this Act; and

(2) the Agua Special Utility District shall establish and post on the district's Internet website a database of district check register reports as required by Section 7201.104, Special District Local Laws Code, as added by this Act.

SECTION 7. The changes in law made by this Act do not affect the entitlement of a member serving on the board of directors of the Agua Special Utility District immediately before the effective date of this Act to continue to serve as a member of the board for the remainder of the member's term.

SECTION 8. The changes in law made by this Act apply only to a general manager employed or whose employment contract is renewed or extended by the Agua Special Utility District on or after the effective date of this Act. A general manager employed or whose employment contract is renewed or extended before the effective date of this Act is governed by the law in effect on the date the general manager was employed, and the former law is continued in effect for that purpose.

SECTION 9. (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies,

1 officials, or entities to which they are required to be furnished  
2 under Section 59, Article XVI, Texas Constitution, and Chapter 313,  
3 Government Code.

4 (b) The governor, one of the required recipients, has  
5 submitted the notice and Act to the Texas Commission on  
6 Environmental Quality.

7 (c) The Texas Commission on Environmental Quality has filed  
8 its recommendations relating to this Act with the governor, the  
9 lieutenant governor, and the speaker of the house of  
10 representatives within the required time.

11 (d) All requirements of the constitution and laws of this  
12 state and the rules and procedures of the legislature with respect  
13 to the notice, introduction, and passage of this Act are fulfilled  
14 and accomplished.

15 SECTION 10. This Act takes effect September 1, 2019.

40018513 - Senate Purchasing - 30121750

# THE MONITOR

PUBLISHER'S AFFIDAVIT

State of Texas

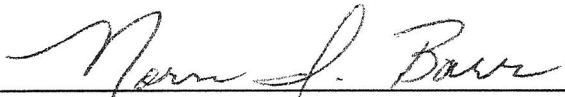
County of Hidalgo

Laura Salazar being duly  
Sworn on his/her oath states that he/she is  
a Sales Representative of THE MONITOR  
in McAllen, TX and that the attached notice  
appeared in the following issues:

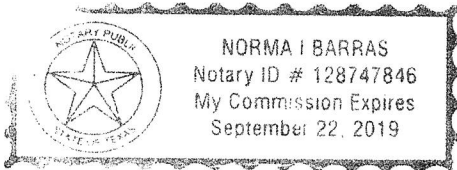
March 21, 2019



Subscribed and sworn to before me this  
the 21st day of March A.D. 2019.



Notary Public, Hidalgo County



## NOTICE OF INTENT TO INTRODUCE A LOCAL BILL

Pursuant to the Constitution and the laws of the State of Texas, notice is hereby given of Senator Juan Hinojosa's intention to introduce a bill in the 86th Legislature of the State of Texas at its regular session in Austin, Texas, the substance of the contemplated law being as follows:

**An act relating to the general provisions, board of directors, powers and duties, and operating provisions of Agua Special Utility District (SUD).**

All interested persons will, therefore take notice of the matters and facts set out in the foregoing statement of the substance of the contemplated laws as required by the Constitution and the laws of the State of Texas.

MA-30121750