

BILL ANALYSIS

Senate Research Center

S.B. 911
By: Hinojosa
Water & Rural Affairs
6/5/2019
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Texas Commission on Environmental Quality (TCEQ) has "continuing right of supervision" and oversight over water districts in accordance with the Water Code. Over the years TCEQ has lacked the statutory authority to properly investigate a water district that inadequately mismanaged its financial resources and procurement process. Deficiencies in the management of finances and operations hinder the district's ability to provide water services to its customers as well as cover its current liabilities and address future financial needs. S.B. 911 enhances TCEQ's statutory supervisory role after issues are raised by a district's annual audit report.

Continuing Right of Supervision: S.B. 911 adds language to clarify and amend TCEQ authority regarding water districts in Chapter 49 of the Water Code.

- Specifically, S.B. 911 would amend Section 12.081(a)(1), Water Code, to replace the phrase "competence, fitness, and reputation" with the word "qualifications." Additionally, S.B. 911 would amend Section 12.081(a)(4), Water Code, to clarify that the State Office of Administrative Hearings will conduct a hearing instead of a hearing examiner appointed by TCEQ.
- Both of these changes are recommended to update outdated language in the statute and to provide clarity to TCEQ's supervisory role.

Confirmation and Director Election: S.B. 911 makes revisions to ensure that documents related to a district's confirmation elections are timely provided to TCEQ to allow TCEQ to timely respond to inquiries about these elections.

- All orders required to be filed must be provided to TCEQ within 30 days after the date of the election.

Review of Annual Audit Report: S.B. 911 amends the Water Code to specify that after reviewing a district's annual audit report, the executive director of TCEQ may request additional information from the district. This information must be provided within 60 days, unless extended by the executive director for good cause.

- This revision is recommended to authorize the executive director to investigate issues raised by a district's annual audit report and to provide a deadline for the district to provide the requested information.

Access to and Maintenance of District Records: S.B. 911 specifies that the executive director may review and investigate a district's financial records and may conduct an on-site audit of a district's financial information.

- This amendment is proposed to clarify that the executive director may review a district's financial information and may audit a district if the executive director determines that an audit is warranted. (Original Author's/Sponsor's Statement of Intent)

S.B. 911 amends current law relating to the supervision of water districts by the Texas Commission on Environmental Quality.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 12.081(a), Water Code, as follows:

(a) Provides that the powers and duties of all districts and authorities created under Article III, Section 52 (Restrictions on Lending Credit or Making Grants by Political Corporations or Political Subdivisions; Authorized Bonds; Investment of Funds) and Article XVI, Section 59 (Conservation and Development of Natural Resources; Development of Parks and Recreational Facilities; Conservation and Reclamation Districts; Indebtedness and Taxation Authorized) of the Texas Constitution are subject to the continuing right of supervision of the State of Texas by and through the Texas Commission on Environmental Quality (TCEQ) or its successor, and that this supervision is authorized to include but is not limited to the authority to:

- (1) inquire into the qualifications, rather than the competence, fitness, and reputation, of the officers and directors of any district or authority;
- (2)–(4) makes no changes to these subdivisions;
- (5) makes a nonsubstantive change to this subdivision;
- (6) issue a permit under Chapter 361 (Solid Waste Disposal Act), Health and Safety Code, notwithstanding a district's rule or objection; and
- (7) creates this subdivision from existing text and makes no further changes to this subdivision.

SECTION 2. Amends Sections 49.102(e) and (f), Water Code, as follows:

(e) Requires a copy of the order filed following an election on the creation of a district to be filed with TCEQ not later than the 30th day after the date of the election, rather than requiring a copy of the order to be filed with TCEQ.

(f) Requires that the order canvassing the results of the confirmation election that is required to contain a description of the district's boundaries and to be filed with the executive director of TCEQ (executive director) and in the deed records of the county or counties in which the district is located to be filed not later than the 30th day after the date of the election.

SECTION 3. Amends Section 49.195(a), Water Code, as follows:

(a) Authorizes the executive director, after reviewing the audit report, to request additional information from the district. Requires the district to provide the additional information not later than the 60th day after the date the request was received, unless the executive director extends the time allowed for the district to provide additional information for good cause.

SECTION 4. Amends Section 49.196(a), Water Code, to authorize the executive director to review and investigate a district's financial records and to conduct an on-site audit of a district's financial information.

SECTION 5. Effective date: September 1, 2019.