

By: Zedler

H.B. No. 4273

A BILL TO BE ENTITLED

AN ACT

relating to the supervision and administration of municipal management districts.

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

SECTION 1. Section 321.013(a), Government Code, is amended to read as follows:

(a) The State Auditor shall conduct audits of all departments, including institutions of higher education, and of municipal management districts, as specified in the audit plan. At the direction of the committee, the State Auditor shall conduct an audit or investigation of any entity receiving funds from the state.

SECTION 2. Chapter 321, Government Code, is amended by adding Section 321.01335 to read as follows:

Sec. 321.01335. ECONOMY AND EFFICIENCY AUDIT OF MUNICIPAL MANAGEMENT DISTRICTS. At a reasonable time in advance of an economy and efficiency audit of a municipal management district requested under Section 375.0961, Local Government Code, the state auditor shall provide the board of directors of the district with written information relating to the procedures for and scope of the audit. The state auditor shall include in the materials information describing:

(1) how the appropriate representatives of the district may participate in the audit planning process; and

1 (2) how the district may request information or
2 assistance in preparing for the audit from the state auditor.

3 SECTION 3. Section 375.061, Local Government Code, is
4 amended to read as follows:

5 Sec. 375.061. NUMBER OF DIRECTORS; TERMS. (a) A district
6 is governed by a board of at least five but not more than 30
7 directors who serve staggered four-year terms.

8 (b) Directors may serve successive terms.

9 SECTION 4. Subchapter D, Chapter 375, Local Government
10 Code, is amended by adding Section 375.0641 to read as follows:

11 Sec. 375.0641. ELECTIONS FOR SUCCEEDING BOARD. (a) In all
12 areas of conflict, the provisions of this section take precedence
13 over all prior statutory enactments.

14 (b) An election shall be held on the uniform election date,
15 provided by Section 41.001, Election Code, in May to elect the
16 appropriate number of directors.

17 (c) Except as provided by Subsections (d) and (e), directors
18 are elected at large.

19 (d) The directors may assign a position number to each
20 director's office so that the directors may be elected by position.

21 (e) The directors may provide for the election of all
22 directors, or a majority of directors, from single-member
23 districts, which must be geographically described inside the
24 boundaries of the district in a manner that is equitable for both
25 the voters of the single-member districts and the voters of the
26 district generally.

27 (f) If authorized by the board in the proceedings calling a

1 director election, the secretary of the board or the secretary's
2 designee, on receipt of the certification required by Section
3 2.052(b), Election Code, shall post notice that the election is not
4 to be held. The notice must be posted, on or before the
5 commencement of early voting, at each polling place that would have
6 been used in the election. If the notice is timely posted:

7 (1) the secretary or designee is not required to:

8 (A) post or publish notice of the election;

9 (B) prepare or print ballots and election
10 materials; or

11 (C) hold early and regular voting; and

12 (2) the board shall meet at the earliest practicable
13 time to declare each unopposed candidate elected to office.

14 (g) In the event of a failure to elect one or more directors
15 resulting from the absence of, or failure to vote by, the qualified
16 voters in an election held by the district, the members of the board
17 holding the positions not filled at the election, including initial
18 directors, shall be considered to have been elected and shall serve
19 an additional term of office.

20 (h) Sections 49.1045, 49.109, 49.110, 49.111, 49.112, and
21 49.113, Water Code, apply to an election held under this section.

22 (i) This section does not apply to the selection of initial
23 directors.

24 SECTION 5. Section 375.065, Local Government Code, is
25 amended to read as follows:

26 Sec. 375.065. REMOVAL OF DIRECTOR; RECALL ELECTION. (a) The
27 governing body of the municipality after notice and hearing may

1 remove a director for misconduct or failure to carry out the
2 director's duties on petition by a majority of the remaining
3 directors.

4 (b) A director may be removed from office through a recall
5 election initiated by a petition:

6 (1) signed by the owners of 10 percent or more of the
7 assessed value of the property in the district based on the most
8 recent certified county property tax rolls; and

9 (2) filed with the municipal clerk.

10 (c) Not later than the 10th day after the date a petition is
11 filed, the municipal clerk shall review the petition and determine
12 whether the petition is valid.

13 (d) If the municipal clerk determines the petition is valid,
14 the clerk shall attach a certificate to the petition stating that
15 the petition is valid and submit the petition and certificate to the
16 board as soon as practicable. If the clerk determines that the
17 petition is not valid:

18 (1) the clerk shall attach a certificate to the
19 petition stating the facts supporting the determination that the
20 petition is not valid;

21 (2) the clerk shall notify the person who filed the
22 petition of the clerk's determination;

23 (3) the petition may be amended or supplemented and
24 filed again not later than the 10th day after the date of the
25 certification under Subdivision (1); and

26 (4) the clerk shall return the petition to the person
27 who filed it.

1 (e) The municipal clerk shall determine the validity of a
2 petition filed under Subsection (d)(3) in the same manner as the
3 original filing except that if the clerk determines the petition is
4 not valid the petition may not be further amended or supplemented
5 and the recall election is not held.

6 (f) Unless the director who is the target of the petition
7 resigns before the sixth day after the date a petition and
8 certificate are delivered to the board, the board shall order that a
9 recall election be held on the first uniform election date that
10 occurs after the date of the order.

11 (g) The ballot for a recall election shall be printed to
12 permit voting for or against the proposition: "The removal of (name
13 of the member of the board) from the board of the (name of
14 district)."

15 (h) If less than a majority of the votes received at the
16 recall election are in favor of removal of the director named on the
17 ballot, the director remains in office. If a majority of the votes
18 received are in favor of the removal of the director, the board
19 shall immediately declare the director's office vacant and the
20 vacancy shall be filled in the manner provided by Section 375.066. A
21 director removed by recall may not be appointed to fill the vacancy
22 and may not be a candidate in any election called to fill the
23 vacancy.

24 SECTION 6. Section 375.067(a), Local Government Code, is
25 amended to read as follows:

26 (a) As soon as practicable after a director is appointed or
27 elected, the director shall execute a \$10,000 bond payable to the

1 district and conditioned on the faithful performance of the
2 director's duties.

3 SECTION 7. Section 375.068, Local Government Code, is
4 amended to read as follows:

5 Sec. 375.068. OFFICERS. After directors are appointed or
6 elected and have qualified by executing a bond and taking the oath,
7 they shall organize by electing a president, a vice-president, a
8 secretary, and any other officers the board considers necessary.

9 SECTION 8. Subchapter E, Chapter 375, Local Government
10 Code, is amended by adding Section 375.0961 to read as follows:

11 Sec. 375.0961. AUDIT REVIEW. (a) The executive director of
12 the commission shall review using the standards and procedures
13 established under Section 49.195, Water Code, an audit prepared
14 under Section 375.096(a) if the commission receives a petition
15 requesting the review signed by the owners of 10 percent or more of
16 the assessed value of the property in the district based on the most
17 recent certified county property tax rolls.

18 (b) Based on the review, the executive director may request
19 that the state auditor conduct an economy and efficiency audit of a
20 district under Section 321.01335, Government Code. The state
21 auditor's participation under this section is subject to approval
22 by the legislative audit committee for inclusion in the audit plan
23 under Section 321.013(c), Government Code.

24 SECTION 9. Section 375.208, Local Government Code, is
25 amended to read as follows:

26 Sec. 375.208. COMMISSION APPROVAL. A district must obtain
27 approval of the commission as provided by Chapter 54, Water Code, if

1 it issues bonds to provide water, sewage, or drainage facilities.
2 Except as expressly provided by this section and Section [~~Sections~~]
3 375.062 [~~and 375.064~~], a district is not subject to the
4 jurisdiction of the commission.

5 SECTION 10. Subchapter L, Chapter 375, Local Government
6 Code, is amended by adding Sections 375.245 and 375.246 to read as
7 follows:

8 Sec. 375.245. BALLOT LANGUAGE. The ballot for a bond
9 election, maintenance tax election, and any other district election
10 held in a district must be written in plain language designed to be
11 easily understood by the average person.

12 Sec. 375.246. ELECTION TO REPEAL INCREASE OF OPERATION AND
13 MAINTENANCE TAX. (a) Instead of the notice text required by
14 Section 49.236(a)(3), Water Code, as added by Chapter 335 (S.B.
15 392), Acts of the 78th Legislature, Regular Session, 2003, a notice
16 given by the board under Section 49.236(a), Water Code, as added by
17 Chapter 335 (S.B. 392), Acts of the 78th Legislature, Regular
18 Session, 2003, must contain a statement in substantially the
19 following form:

20 "NOTICE OF TAXPAYERS' RIGHT TO ROLLBACK ELECTION
21 "If taxes on the average residence homestead increase,
22 the qualified voters of the district by petition may
23 require that an election be held to determine whether
24 to reduce the operation and maintenance tax rate to the
25 rollback tax rate under Section 375.246, Local
26 Government Code."

27 (b) Section 49.236(d), Water Code, as added by Chapter 335

1 (S.B. 392), Acts of the 78th Legislature, Regular Session, 2003,
2 does not apply to the district.

3 (c) If the governing body of a district adopts a combined
4 debt service, operation and maintenance, and contract tax rate that
5 exceeds the rollback tax rate, the qualified voters of the district
6 by petition may require that an election be held to determine
7 whether or not to reduce the tax rate adopted for the current year
8 to the rollback tax rate in accordance with the procedures provided
9 by Sections 26.07(b)-(g) and 26.081, Tax Code. For purposes of
10 Sections 26.07(b)-(g), Tax Code, and this section, the rollback tax
11 rate is the sum of the following tax rates:

12 (1) the current year's debt service tax rate;
13 (2) the current year's contract tax rate; and
14 (3) the operation and maintenance tax rate that would
15 impose the same amount as the operation and maintenance tax imposed
16 by the district in the preceding year on a residence homestead
17 appraised at the average appraised value of a residence homestead
18 in the district in that year, disregarding any homestead exemption
19 available only to disabled persons or persons 65 years of age or
20 older.

21 SECTION 11. Section 49.052(h), Water Code, is amended to
22 read as follows:

23 (h) This subsection applies only to a district that is
24 located wholly within the boundaries of a municipality with a
25 population of more than 1.5 million, that is governed by Chapter
26 375, Local Government Code, and that is governed by a ~~[an appointed]~~
27 board consisting of nine or more members. Notwithstanding

1 Subsection (f) or (g), a person is considered to have resigned from
2 serving as a member of the board if the person fails to attend three
3 consecutive meetings of the board. The remaining board members by
4 majority vote may waive the resignation under this subsection if
5 fairness requires that the absences be excused on the basis of
6 illness or other good cause.

7 SECTION 12. Section 375.064, Local Government Code, is
8 repealed.

9 SECTION 13. (a) This section applies only to:

10 (1) a municipal management district created by
11 petition under Chapter 375, Local Government Code, before the
12 effective date of this Act; or

13 (2) a special district that has the powers and duties
14 granted to a municipal management district under Chapter 375, Local
15 Government Code, created by special law of the legislature before
16 the effective date of this Act.

17 (b) In all areas of conflict the provisions of this section
18 take precedence over all prior statutory enactments.

19 (c) This Act does not prohibit a person who is an appointed
20 director of a district serving on the effective date of this Act
21 from running for election to the board of directors of the district
22 if the person has the qualifications required for a director.

23 (d) The terms of appointed directors serving on the
24 effective date of this Act expire on the date a majority of the
25 members of the first board of directors elected under Subsection
26 (e) of this section qualify to serve.

27 (e) The board of directors of a district for which appointed

1 directors are serving on the effective date of this Act shall call
2 an election to elect directors for the district in the manner
3 required by Section 375.0641, Local Government Code, as added by
4 this Act, not later than the uniform election date in May of 2021.

5 SECTION 14. This Act takes effect September 1, 2019.