

By: Hinojosa

S.B. No. 2552

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the administration of the Agua Special Utility
3 District; creating a criminal offense.

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

5 SECTION 1. Section 7201.0513(a), Special District Local
6 Laws Code, is amended to read as follows:

7 (a) Before the first election of directors [~~under Section~~
8 ~~7201.052~~], the initial board shall establish a program of education
9 for directors that includes information on:

- 10 (1) the history of the district;
- 11 (2) the district's enabling legislation;
- 12 (3) Chapters 49 and 65, Water Code, and other laws that
13 apply to the district, including the requirements of the:
 - 14 (A) open meetings law, Chapter 551, Government
15 Code; and
 - 16 (B) public information law, Chapter 552,
17 Government Code;
- 18 (4) relevant legal developments related to water
19 district governance;
- 20 (5) the duties and responsibilities of the board;
- 21 (6) the requirements of conflict of interest laws and
22 other laws relating to public officials; and
- 23 (7) any applicable ethics policies adopted by the
24 Texas Commission on Environmental Quality or the Texas Ethics

1 Commission.

2 SECTION 2. Subchapter B, Chapter 7201, Special District
3 Local Laws Code, is amended by adding Section 7201.055 to read as
4 follows:

5 Sec. 7201.055. COMPOSITION OF BOARD; TERMS. (a) The
6 district is governed by a board of seven directors, each of whom
7 occupies a numbered position on the board and represents a unique
8 subdistrict containing, as near as practicable, one-seventh of the
9 total number of residents in the district.

10 (b) A candidate for a position on the board must:

11 (1) reside in the subdistrict represented by that
12 position; and

13 (2) be eligible to hold office under Section 141.001,
14 Election Code.

15 (c) The district shall fill a vacancy on the board in
16 accordance with Section 49.105, Water Code.

17 (d) Directors serve staggered terms of four years and may
18 not serve more than two consecutive terms.

19 (e) A person who has served as a member of the board of
20 directors of the corporation is not eligible to serve as a district
21 director.

22 (f) If a director is an employee of another taxing entity
23 within the district, the board may not employ as an employee, as a
24 consultant, or on a contract basis:

25 (1) an elected official of the other taxing entity
26 that employs the director; or

27 (2) a person related to that elected official in the

1 third degree of consanguinity or affinity as determined under
2 Chapter 573, Government Code.

3 SECTION 3. Subchapter B, Chapter 7201, Special District
4 Local Laws Code, is amended by adding Sections 7201.056, 7201.057,
5 and 7201.058 to read as follows:

6 Sec. 7201.056. FILING OF FINANCIAL STATEMENT BY DIRECTOR.

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

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

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

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

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

18 Sec. 7201.057. SUBSTANTIAL BUSINESS INTEREST. For purposes
19 of Chapter 171, Local Government Code, a director, in connection
20 with a vote or decision by the board, is considered to have a
21 substantial interest in a business entity if a person related to the
22 director within the third degree by consanguinity or affinity, as
23 determined under Chapter 573, Government Code, has a substantial
24 interest in the business entity.

25 Sec. 7201.058. GROUNDS FOR REMOVAL. A director may be
26 removed from the board if the director:

27 (1) does not have at the time of appointment the

1 qualifications required by Section 7201.055(b);

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

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

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

8 (5) fails to comply with Section 7201.071.

9 SECTION 4. Chapter 7201, Special District Local Laws Code,
10 is amended by adding Subchapter B-1 to read as follows:

11 SUBCHAPTER B-1. DISTRICT ADMINISTRATION

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

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

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

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

21 (2) accept other employment or engage in a business or
22 professional activity that the director or employee might
23 reasonably expect would require or induce the director or employee
24 to disclose confidential information acquired in the course of the
25 director's or employee's duties under this chapter;

26 (3) accept other employment or compensation that could
27 reasonably be expected to impair the director's or employee's

1 independent judgment in the performance of the director's or
2 employee's duties under this chapter;

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

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

10 (6) have a personal interest in an agreement executed
11 by the district.

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

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

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

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

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

26 (4) serves as a corporate officer or member of the
27 board of directors of a business entity or other organization that

1 receives money from the district;

2 (5) is a creditor, debtor, or guarantor in an amount of
3 \$5,000 or more of a person or business entity that receives money
4 from the district;

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

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

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

15 Sec. 7201.073. GENERAL MANAGER; DUTIES. (a) The board
16 shall employ a person with prior experience and training as general
17 manager.

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

19 (1) managing the overall strategy and operations of
20 the district's projects, services, budget, finances, and community
21 relations;

22 (2) consulting with, advising, and supporting the
23 board to efficiently accomplish the purposes of the district and to
24 ensure compliance with all regulatory, financing, and legal
25 requirements;

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

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

3 (5) providing leadership and supervision to district
4 employees;

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

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

9 (8) monitoring current district projects and
10 prioritizing future district projects;

11 (9) evaluating contracts, grants, and commitments as
12 authorized by the board;

13 (10) planning, organizing, and directing district
14 programs and services, evaluating the results of those programs and
15 services, and recommending policies, procedures, and board actions
16 based on that evaluation;

17 (11) employing all persons necessary for the proper
18 handling of the business and operation of the district and
19 determining the compensation of those employees; and

20 (12) performing other general responsibilities as
21 determined by the board.

22 (c) The board may assign the duties under Subsection (b)
23 only to the general manager. The board may not assign the duties to
24 any other person.

25 (d) The general manager is an employee of the district. The
26 general manager serves at the pleasure of and reports only to the
27 board.

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

3 (f) The board may increase the compensation of the general
4 manager in an amount not to exceed 10 percent of the amount of the
5 general manager's compensation immediately before the effective
6 date of the increase.

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

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

12 SECTION 5. Subchapter C, Chapter 7201, Special District
13 Local Laws Code, is amended by adding Section 7201.104 to read as
14 follows:

15 Sec. 7201.104. SEARCHABLE DISTRICT EXPENDITURE DATABASE.

16 (a) The district shall establish and post on the district's
17 Internet website a database of district check register reports,
18 including district expenditures and contracts. The database must
19 include the amount, date, description, payor, and payee of the
20 expenditures, and, if applicable, parties to the contract.

21 (b) The district shall prominently display a link to the
22 database established under this section on the district's Internet
23 website. The information provided in the district check register
24 reports must be updated monthly.

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

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

3 (c) Not later than the third day after the date the
4 accountant finalizes the audit required by this section, the
5 district shall publish the audit on the district's Internet
6 website.

7 SECTION 7. Section 7201.204, Special District Local Laws
8 Code, is amended to read as follows:

9 Sec. 7201.204. NEWSLETTER, WEBSITE, AND ANNUAL FINANCIAL
10 INFORMATION. (a) The district shall maintain and update monthly
11 an Internet website with current information concerning [~~agendas,~~
12 ~~minutes,~~] policies, monthly financial information concerning
13 revenues and expenses, and monthly [~~quarterly~~] summaries.

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

17 (c) Not later than 72 hours after the date the district
18 adopts the minutes of a meeting held by the district, the district
19 shall publish on the district's Internet website the minutes
20 adopted by the district.

21 (d) The district shall provide information, including
22 summary financial information based on the preceding year's annual
23 audit, to district customers at an annual meeting.

24 SECTION 8. Effective December 31, 2019, Sections 7201.051
25 and 7201.052, Special District Local Laws Code, are repealed.

26 SECTION 9. (a) Not later than December 31, 2019, the board
27 of directors of the Agua Special Utility District shall determine

1 each subdistrict in accordance with Section 7201.055, Special
2 District Local Laws Code, as added by this Act, and in compliance
3 with all applicable provisions of the Election Code.

4 (b) The initial election for positions 1, 2, and 3 on the
5 board shall be held on the uniform election date in May 2020. The
6 initial election for positions 4 through 7 shall be held on the
7 uniform election date in May 2022.

8 SECTION 10. Not later than January 1, 2020:

9 (1) a member of the board of directors of the Agua
10 Special Utility District shall file a financial statement as
11 required by Section 7201.056, Special District Local Laws Code, as
12 added by this Act; and

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

17 SECTION 11. (a) The changes in law made by this Act do not
18 affect the entitlement of a member serving on the board of directors
19 of the Agua Special Utility District immediately before the
20 effective date of this Act to continue to serve as a member of the
21 board for the remainder of the member's term.

22 (b) A member described by Subsection (a) of this section may
23 not serve more than two consecutive terms on the board even though
24 one or more of those terms began before the effective date of this
25 Act.

26 SECTION 12. The changes in law made by this Act apply only
27 to a general manager employed or whose employment contract is

1 renewed or extended by the Agua Special Utility District on or after
2 the effective date of this Act. A general manager employed or whose
3 employment contract is renewed or extended before the effective
4 date of this Act is governed by the law in effect on the date the
5 general manager was employed, and the former law is continued in
6 effect for that purpose.

7 SECTION 13. (a) The legal notice of the intention to
8 introduce this Act, setting forth the general substance of this
9 Act, has been published as provided by law, and the notice and a
10 copy of this Act have been furnished to all persons, agencies,
11 officials, or entities to which they are required to be furnished
12 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
13 Government Code.

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

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

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

25 SECTION 14. (a) Section 2 of this Act takes effect
26 December 31, 2019.

27 (b) Except as provided by Subsection (a) of this section,

S.B. No. 2552

1 this Act takes effect September 1, 2019.