

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

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

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

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

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

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

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

13 (5) fails to comply with Section 7201.071.

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

16 SUBCHAPTER B-1. DISTRICT ADMINISTRATION

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

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

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

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

26 (2) accept other employment or engage in a business or
27 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

1 audit, to district customers at an annual meeting.

2 SECTION 6. Not later than January 1, 2020:

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

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

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

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

24 SECTION 9. (a) The legal notice of the intention to
25 introduce this Act, setting forth the general substance of this
26 Act, has been published as provided by law, and the notice and a
27 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.