

## **BILL ANALYSIS**

Senate Research Center

S.B. 1056  
By: Hinojosa  
Local Government  
6/20/2023  
Enrolled

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

S.B. 1056 is a local bill that applies only to Hidalgo County Water Improvement District No. 3 (district). S.B. 1056 builds on the administration and operation reforms passed under S.B. 2185 (87R) with reforms to improve accountability and transparency that align with the district's current use. The district formed in 1921 for the purposes of providing water to serve agricultural interests despite being located in the heart of the city of McAllen. The district today is essentially engaged in one activity—taking water out of the Rio Grande River and pumping it a few miles along a canal into a holding reservoir owned by the City of McAllen. With less than ten farmers in the district's territory that still flood irrigate, the district's source of revenue is entirely dependent on the City of McAllen. By selling non-potable water for municipal purposes and charging services fees, the City of McAllen accounts for approximately 90 percent of the district's total operating revenue. Every single resident of McAllen is impacted by the district's policies, because the cost the McAllen public utility charges for water is directly impacted by the district's pricing.

Year after year the citizens of McAllen support an obsolete, burdensome, and unnecessary layer of government, yet cannot hold the board of directors accountable for their decisions that result in their water bills going up. Despite this burden, the overwhelming majority of the registered voters living within the district are unable to participate in board elections. For the May 2022 elections, there were an estimated 70,000 residents living within the district's territory, yet by exercising the district's exclusion authority, the board determined only 335 people were eligible to vote.

S.B. 1056 addresses this disparity by improving accountability to allow the district's actual customers and largest source of revenue to vote in fair elections. The bill also adds safeguards to conflicts of interest by board members and employees. The bill also establishes the framework to provide for effective governance, transparency, and management of the district's finances and operations.

(Original Author's/Sponsor's Statement of Intent)

[Note: While the statutory reference in this bill is to the Texas Natural Resource Conservation Commission (TNRCC), the following amendments affect the Texas Commission on Environmental Quality, as the successor agency to TNRCC.]

S.B. 1056 amends current law relating to the directors and administration of the Hidalgo County Water Improvement District No. 3.

### **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 Subtitle I, Title 6, Special District Local Laws Code, by adding Chapter 9054, as follows:

CHAPTER 9054. HIDALGO COUNTY WATER IMPROVEMENT DISTRICT NO. 3

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 9054.0001. DEFINITIONS. Defines "board," "commission," "director," and "district."

Sec. 954.0002. NATURE OF DISTRICT. Provides that the Hidalgo County Water Improvement District No. 3 (district) is a conservation and reclamation district organized to accomplish the purposes of Section 59 (Conservation and Development of Natural Resources; Development of Parks and Recreational Facilities; Conservation and Reclamation Districts; Indebtedness and Taxation Authorized), Article XVI (General Provisions), Texas Constitution, and operating as a water control and improvement district in accordance with Chapters 49 (Provisions Applicable to All Districts) and 51 (Water Control and Improvement Districts), Water Code.

SUBCHAPTER B. ELECTIONS

Sec. 9054.0101. ELECTIONS. (a) Requires the district to hold an election on the uniform election date in November of each even-numbered year to elect the appropriate number of directors.

(b) Requires the district to contract with the county elections administrator as provided by Subchapter D (Contract for Election Services), Chapter 31, Election Code, to perform all duties and functions of the district in relation to an election of directors.

Sec. 9054.0102. ELIGIBILITY TO VOTE. Requires a person, to be eligible to vote in an election in the district, to be:

(1) a qualified voter as defined by Section 11.002 (Qualified Voters), Election Code, on the day the person offers to vote; and

(2) a person who resides on land inside the territory defined by the boundaries of the district as submitted to the Texas Commission on Environmental Quality (TCEQ) under Section 49.455(j) (relating to requiring a copy of all forms, maps, or plats and amendments to these filed to also be filed with the executive director of the Texas Natural Resource Conservation Commission), Water Code, or TCEQ rule.

Sec. 9054.0103. PROCEDURES FOR IDENTIFYING VOTERS; PROVISIONAL VOTING. (a) Requires the district to submit to the registrar a description or map of the territory defined by the boundaries of the district as submitted to TCEQ under Section 49.455(j), Water Code, or TCEQ rule, that is in sufficient detail to enable the registrar to produce the official list of the district's eligible voters.

(b) Requires the district to submit the information required under this section not later than the 30th day after the date of the last day to order a general or special election.

(c) Authorizes a voter to be accepted to vote only provisionally under Section 63.011 (Provisional Voting), Election Code, if the county election officials are unable to verify whether the voter is eligible under Section 9054.0102.

Sec. 9054.0104. BOND AND CONTRACT ELECTIONS; NOVEMBER DATES. (a) Requires that a bond election held by the district be held in accordance with Section 49.106 (Bond Elections), Water Code, except that the district is prohibited from holding the election on a date other than the uniform election date prescribed by Section 41.001 (Uniform Election Dates), Election Code, that occurs in November of the applicable tax year.

(b) Requires that a contract election held by the district be held in accordance with Section 49.108 (Contract Elections), Water Code, except that the district is prohibited from holding the election on a date other than the uniform election date prescribed by Section 41.001, Election Code, that occurs in November of the applicable tax year.

Sec. 9054.0105. EXCLUSION OF TERRITORY. (a) Provides that this section applies to the exclusion of territory by the district under the authority of Subchapters J (Annexation or Exclusion of Land) and J-1 (Exclusion of Urban Property From Certain Water Districts), Chapter 49, Water Code, and Subchapter O (Adding and Excluding Territory and Consolidating Districts), Chapter 51, Water Code.

(b) Authorizes the district to exclude territory on the basis that the land is in agricultural use only if the land meets the requirements for agricultural use under Section 23.51 (Definitions), Tax Code.

(c) Authorizes the district to exclude territory on the basis that the land is nonirrigated property only if the land meets the requirements for nonirrigated property under Section 49.309 (Exclusions of Nonirrigated Property), Water Code.

(d) Authorizes the district to exclude territory on the basis of the property being urban property only if the property meets the requirements of Section 49.3181 (Definitions), Water Code.

(e) Prohibits the district from excluding territory during the period of time between the first day that a candidate is authorized to file an application under Section 141.040 (Notice of Deadlines and Filing Methods), Election Code, and the day of the election in which that candidate appears on the ballot.

#### SUBCHAPTER C. BOARD OF DIRECTORS

Sec. 9054.0201. DIRECTORS; TERMS. (a) Provides that the district is governed by a board of five directors (board).

(b) Provides that directors serve staggered terms of four years.

Sec. 9054.0202. VACANCIES. (a) Requires the district to fill a vacancy on the board in accordance with Sections 49.105(a)-(c) (relating to the policies, requirements, and provisions for filling vacancies on the board), Water Code.

(b) Requires the board, if a position on the board becomes vacant on a date that is more than two years before the next scheduled date for an election for the office, to:

(1) appoint a person to fill the vacant office until a person elected to that office has qualified; and

(2) hold an election to elect a member to fill the vacant office for the remainder of the unexpired term together with the next regularly scheduled election for other directors' offices.

(c) Provides that Section 49.105(d) (relating to the requirement that current members of the board or temporary board holding positions be deemed elected and serve an additional term in the event of a failure to elect one or more members of the board resulting from an absence of an election by the district) does not apply to the board.

Sec. 9054.0203. QUALIFICATIONS FOR DIRECTOR. (a) Requires a person, to be qualified to serve as a director, to:

(1) be required to be eligible to hold office under Section 141.001 (Eligibility Requirements for Public Office), Election Code, and Section 9054.0204; and

(2) be required to:

(A) own land subject to taxation in the district;

(B) be a user of the facilities of the district; or

(C) be a qualified voter of the district under Section 9054.0102.

(b) Provides that Section 49.052, Water Code, applies to the district.

Sec. 9054.0204. DISQUALIFICATION OF DIRECTORS. (a) Provides that a member of the governing body of another political subdivision is disqualified from serving as a director.

(b) Provides that a director is disqualified from serving as a director if:

(1) the director is appointed or elected as a member of the governing body of another political subdivision; or

(2) the board determines a relationship or employment exists that constitutes a disqualification under Section 49.052(a) (relating to conditions that disqualify a person from serving as a member of a board or district), Water Code.

(c) Provides that a person is disqualified from serving as a director if the person or a relative of the person within the third degree by consanguinity or affinity, as determined by Chapter 573 (Degrees of Relationship; Nepotism Prohibitions), Government Code:

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

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

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

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

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

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

(7) is required to register as a lobbyist under Chapter 305 (Registration of Lobbyists), Government Code, because of the person's activities for

compensation on behalf of a profession related to the operation of the district.

SECTION 2. Provides that the requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

SECTION 3. Effective date: upon passage or September 1, 2023.