

## **BILL ANALYSIS**

C.S.S.B. 1056  
By: Hinojosa  
Natural Resources  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Local constituents have raised concerns about elections and other issues with the board of directors of Hidalgo County Water Improvement District No. 3. C.S.S.B. 1056 seeks to address these issues and build on the district's administration and operation, as established by the 87th Legislature through the passage of S.B. 2185, by revising applicable provisions to improve accountability and transparency that align with the district's current use. These provisions, which apply only to Hidalgo County Water Improvement District No. 3, aim to improve accountability to allow the district's customers and constituents a vote in fair elections. The bill also provides for the qualification and disqualification of board members.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.S.B. 1056 amends the Special District Local Laws Code to establish that the Hidalgo County Water Improvement District No. 3 is a conservation and reclamation district operating as a water control and improvement district in accordance with applicable Water Code provisions. The bill sets out provisions regarding elections and the board of directors for the district.

#### **Elections**

C.S.S.B. 1056 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 and to contract with the county elections administrator to perform all duties and functions of the district in relation to an election of directors.

C.S.S.B. 1056 requires a person, to be eligible to vote in an election in the district, to be a qualified voter under applicable Election Code provisions on the day the person offers to vote and reside on land inside the territory defined by the district's boundaries. The bill requires the district to submit to the registrar a description or map of the territory defined by the district's boundaries that is in sufficient detail to enable the registrar to produce the official list of the district's eligible voters and requires the district to submit the requisite information not later than the 30th day after the date of the last day to order a general or special election. If county election officials are unable to verify whether a voter is eligible in a district election, the voter may be accepted to vote only provisionally under applicable Election Code provisions.

C.S.S.B. 1056 requires a bond election or contract election held by the district to be held in accordance with Water Code provisions relating to those elections for special districts, except that the district may not hold the election on a date other than the prescribed uniform election date that occurs in November of the applicable tax year.

C.S.S.B. 1056, with respect to the exclusion of certain territory by the district under authority granted to water control and improvement districts and special districts, authorizes the district to exclude territory on the following bases:

- that the land is in agricultural use only if the land meets the requirements for agricultural use under Tax Code provisions relating to the appraisal of agricultural land;
- that the land is nonirrigated property only if the land meets applicable Water Code requirements; and
- that the property is urban property only if the property meets applicable Water Code requirements.

The bill prohibits the district from excluding territory during the time period between the first day that a candidate may file an application and the day of the election in which that candidate appears on the ballot.

### **Board of Directors**

C.S.S.B. 1056 establishes that the district is governed by a board of five directors that serve staggered four-year terms. The bill requires the district to fill a vacancy on the board in accordance with Water Code provisions applicable to special districts, except that the requirement for certain board members to serve an additional term or initial term of office, as applicable, in the event of a failure to elect a board member, does not apply to the board. The bill 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 do the following:

- appoint a person to fill the vacant office until a person elected to that office has qualified; and
- 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.S.S.B. 1056 requires a person, to be qualified to serve as a director, to be eligible to hold office under the bill's provisions and under applicable Election Code provisions and to meet the following criteria:

- own land subject to taxation in the district;
- be a user of the facilities of the district; or
- be a qualified voter of the district under the bill's provisions.

C.S.S.B. 1056 establishes that Water Code provisions providing for the disqualification of directors apply to the district and that a director is disqualified from serving as a director if the board determines a relationship or employment exists that constitutes a disqualification under those provisions. The bill establishes that a member of the governing body of another political subdivision is disqualified from serving as a director and that a director is disqualified from serving as a director if the director is appointed or elected as a member of the governing body of another political subdivision. 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 follows:

- 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;
- 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;

- 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;
- 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;
- 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;
- uses or receives a substantial amount of tangible goods, services, or money from the district other than compensation or reimbursement authorized by law; or
- is required to register as a lobbyist because of the person's activities for compensation on behalf of a profession related to the operation of the district.

### **EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2023.

### **COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE**

While C.S.S.B. 1056 may differ from the engrossed in minor or nonsubstantive ways, the following summarizes the substantial differences between the engrossed and committee substitute versions of the bill.

Whereas the engrossed provided for voter eligibility and procedures for identifying voters based on the district's boundaries as those boundaries existed on January 1, 2011, the substitute provides for such eligibility and procedures based on the district's boundaries as submitted to the Texas Commission on Environmental Quality (TCEQ) or TCEQ rule.

The substitute does not include the provisions from the engrossed that repealed, and then codified and revised certain content from, Sections 1 through 6, Chapter 1022 (S.B. 2185), Acts of the 87th Legislature, Regular Session, 2021, relating to certain administrative and operational matters, including a directors' education program, mandatory education for directors, prohibited conduct for directors and district employees, a general manager employed by the district, and a searchable district expenditure database. Nor does the substitute contain provisions from the engrossed that repealed, but did not codify or revise, Sections 7 and 8, Chapter 1022 (S.B. 2185), Acts of the 87th Legislature, Regular Session, 2021, relating, respectively, to a requirement for the publication of notice before each election to elect members of the board of directors and to a provision prohibiting the imposition of unduly burdensome requirements for constructing a water or sewer pipeline or associated infrastructure or the imposition of a fee that is greater than the actual, reasonable, and documented costs incurred by the district in association with the retail public utility construction. The substitute does not include provisions that were present in the engrossed that provided for the following:

- a specification that Water Code provisions relating to an election judge and exemptions from the use of accessible voting systems do not apply to the district;
- a limit of two consecutive terms for a director on the district board;
- directors' conflicts of interest;
- the removal of a director;
- required filing of a director's financial statement;
- the appointment of a special director;
- the prohibition against a director or district employee being employed by, participating in the management of, or having a substantial interest in an organization, other than a governmental entity, which receives money from the district;
- prohibited hiring or contracting practices;
- powers and duties of board members;
- duties, eligibility criteria, and other requirements relating to a general manager employed by the district; and
- operating provisions relating to the district.

Moreover, the substitute does not include the nonamendatory provisions in the engrossed that disqualified a person who has served as a director of the district for more than eight consecutive years, as of the bill's effective date, from serving another term but which specified that such a person may continue to serve as director for the remainder of the director's term. Nor does the substitute include a nonamendatory provision that appeared in the engrossed requiring the board of directors of the district to adopt procedures for the removal of a director of the district.