88R1394 SGM-F

By:  Muñoz, Jr. H.B. No. 5313

A BILL TO BE ENTITLED

AN ACT

relating to receivership of the Agua Special Utility District and requirements for candidates for the board of directors of the Agua Special Utility District.

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

SECTION 1.  Section 7201.055(b), Special District Local Laws Code, is amended to read as follows:

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

(1)  reside in the subdistrict represented by that position; [~~and~~]

(2)  be eligible to hold office under Section 141.001, Election Code;

(3)  file a campaign treasurer appointment form described by Chapter 252, Election Code, with the Texas Ethics Commission; and

(4)  file each report required under Title 15, Election Code, with the Texas Ethics Commission.

SECTION 2.  Chapter 7201, Special District Local Laws Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. RECEIVERSHIP OF DISTRICT; ENFORCEMENT

Sec. 7201.301.  DEFINITIONS. In this subchapter:

(1)  "Agent" means an individual who exercises discretion in the planning, recommending, selecting, or contracting of a vendor or contractor for the sale, lease, or purchase of real property, goods, or services on behalf of the district.

(2)  "Commission" means the Texas Commission on Environmental Quality.

Sec. 7201.302.  APPOINTMENT OF RECEIVER. (a) At the request of the commission, the attorney general shall bring a suit for the appointment of a receiver to collect the assets and carry on the business of the district if the district:

(1)  received three consecutive audit reports with anything other than an unqualified or clean opinion;

(2)  completed five consecutive fiscal years at a net loss;

(3)  has defaulted on one or more financial debt obligations;

(4)  has a director or agent who has been convicted of or has pleaded guilty to a civil or criminal offense related to the management or governance of the district within the past 10 years; or

(5)  violates a final judgment issued by a district court in a suit by the attorney general under:

(A)  this chapter;

(B)  Chapter 7, 13, 49, or 65, Water Code;

(C)  Chapter 341, Health and Safety Code;

(D)  laws governing the selection, monitoring, or review and evaluation of professional services, vendors, or contractors for construction or improvement projects; or

(E)  a rule adopted or order issued under any statute listed in this subdivision.

(b)  The court shall appoint a receiver if an appointment is necessary to:

(1)  guarantee the collection of assessments, fees, penalties, or interest;

(2)  guarantee continuous and adequate service to the customers of the district; or

(3)  prevent continued or repeated violations of a court order or final commission order.

(c)  The receiver shall execute a bond in an amount to be set by the court to ensure the proper performance of the receiver's duties.

(d)  After appointment and execution of bond, the receiver shall take possession of the assets of the district specified by the court.

(e)  Until discharged by the court, the receiver shall perform the duties that the court directs to preserve the assets and carry on the business of the district and shall strictly observe the final order involved.

(f)  The receiver has the powers and duties necessary to ensure the continued operation of the district and the provision of continuous and adequate services, including:

(1)  meter reading;

(2)  billing for services;

(3)  collecting revenue;

(4)  disbursing funds;

(5)  accessing all system components; and

(6)  requesting rate increases.

(g)  The court may dissolve the receivership and order the assets and control of the business returned to the district if the district shows good cause for the dissolution of the receivership.

(h)  This section does not affect the authority of the commission to pursue an enforcement action against the district or an affiliated person.

SECTION 3.  This Act takes effect September 1, 2023.