

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

1 purchase of real property, goods, or services on behalf of the
2 district.

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

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

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

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

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

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

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

21 (A) this chapter;

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

23 (C) Chapter 341, Health and Safety Code;

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

27 (E) a rule adopted or order issued under any

1 statute listed in this subdivision.

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

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

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

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

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

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

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

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

23 (1) meter reading;

24 (2) billing for services;

25 (3) collecting revenue;

26 (4) disbursing funds;

27 (5) accessing all system components; and

1 (6) requesting rate increases.

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

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

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