

By: Hinojosa

S.B. No. 1056

A BILL TO BE ENTITLED

AN ACT

relating to the directors and administration of the Hidalgo County Water Improvement District No. 3; creating a criminal offense.

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

SECTION 1. Subtitle I, Title 6, Special District Local Laws Code, is amended by adding Chapter 9054 to read as follows:

CHAPTER 9054. HIDALGO COUNTY WATER IMPROVEMENT DISTRICT NO. 3

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 9054.0001. DEFINITIONS. In this chapter:

(1) "Board" means the district's board of directors.

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

(3) "Director" means a board member.

(4) "District" means the Hidalgo County Water Improvement District No. 3.

Sec. 9054.0002. NATURE OF DISTRICT. The district is a conservation and reclamation district organized to accomplish the purposes of Section 59, Article XVI, Texas Constitution, and operating as a water control and improvement district in accordance with Chapters 49 and 51, Water Code.

SUBCHAPTER B. ELECTIONS

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

1       (b) The district shall contract with the county elections  
2 administrator as provided by Subchapter D, Chapter 31, Election  
3 Code, to perform all duties and functions of the district in  
4 relation to an election of directors.

5       (c) Section 49.110, Water Code, does not apply to the  
6 district.

7       (d) The exemptions provided by Section 49.111, Water Code,  
8 do not apply to the district.

9       Sec. 9054.0102. ELIGIBILITY TO VOTE. To be eligible to vote  
10 in an election in the district, a person must be:

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

13           (2) a person who resides on land inside the territory  
14 defined by the boundaries of the district as those boundaries  
15 existed on January 1, 2011.

16       Sec. 9054.0103. PROCEDURES FOR IDENTIFYING VOTERS;  
17 PROVISIONAL VOTING. (a) The district shall submit to the registrar  
18 a description or map of the territory defined by the boundaries of  
19 the district as those boundaries existed on January 1, 2011, that is  
20 in sufficient detail to enable the registrar to produce the  
21 official list of the district's eligible voters.

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

25           (c) If county election officials are unable to verify  
26 whether a voter is eligible under Section 9054.0102, the voter may  
27 be accepted to vote only provisionally under Section 63.011,

1 Election Code.

2 Sec. 9054.0104. BOND AND CONTRACT ELECTIONS; NOVEMBER  
3 DATES. (a) A bond election held by the district must be held in  
4 accordance with Section 49.106, Water Code, except that the  
5 district may not hold the election on a date other than the uniform  
6 election date prescribed by Section 41.001, Election Code, that  
7 occurs in November of the applicable tax year.

8 (b) A contract election held by the district must be held in  
9 accordance with Section 49.108, Water Code, except that the  
10 district may not hold the election on a date other than the uniform  
11 election date prescribed by Section 41.001, Election Code, that  
12 occurs in November of the applicable tax year.

13 SUBCHAPTER C. BOARD OF DIRECTORS

14 Sec. 9054.0201. DIRECTORS; TERMS. (a) The district is  
15 governed by a board of five directors.

16 (b) Directors serve staggered terms of four years and may  
17 not serve more than two consecutive terms.

18 Sec. 9054.0202. VACANCIES. (a) The district shall fill a  
19 vacancy on the board in accordance with Sections 49.105(a)-(c),  
20 Water Code.

21 (b) If a position on the board becomes vacant on a date that  
22 is more than two years before the next scheduled date for an  
23 election for the office, the board shall:

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

26 (2) hold an election to elect a member to fill the  
27 vacant office for the remainder of the unexpired term together with

1 the next regularly scheduled election for other directors' offices.

2 (c) Section 49.105(d) does not apply to the board.

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

5 (1) must be eligible to hold office under Section  
6 141.001, Election Code, and Section 9054.0204; and

7 (2) must:

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

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

10 or

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

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

14 Sec. 9054.0204. DISQUALIFICATION OF DIRECTORS. (a) A  
15 member of the governing body of another political subdivision is  
16 disqualified from serving as a director.

17 (b) A director is disqualified from serving as a director  
18 if:

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

21 (2) the board determines a relationship or employment  
22 exists that constitutes a disqualification under Section  
23 49.052(a), Water Code.

24 (c) A person is disqualified from serving as a director if  
25 the person or a relative of the person within the third degree by  
26 consanguinity or affinity, as determined by Chapter 573, Government  
27 Code:

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

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

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

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

13           (5) is a creditor, debtor, or guarantor in an amount of  
14 \$5,000 or more of a person or business entity that receives money  
15 from the district;

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

19           (7) is required to register as a lobbyist under  
20 Chapter 305, Government Code, because of the person's activities  
21 for compensation on behalf of a profession related to the operation  
22 of the district.

23           Sec. 9054.0205. DIRECTORS' EDUCATION PROGRAM. (a) The  
24 board shall establish a program of education for the directors that  
25 includes information on:

26           (1) the history of the district;

27           (2) the district's statutory authority;

1           (3) laws applicable to the district, including the  
2 requirements of Chapters 551 and 552, Government Code;

3           (4) relevant legal developments related to water  
4 district governance;

5           (5) the duties and responsibilities of the board;

6           (6) conflict of interest laws and other laws related  
7 to public officials; and

8           (7) any applicable ethics policies adopted by the  
9 commission or the Texas Ethics Commission.

10          (b) The district shall pay from district revenue the costs  
11 associated with the development of the education program.

12          (c) The education program may include training provided by  
13 an organization offering courses that have been approved by the  
14 commission.

15          (d) The board may adopt bylaws modifying the education  
16 program as necessary to meet district needs.

17          Sec. 9054.0206. MANDATORY EDUCATION FOR DIRECTORS. (a)  
18 Each director shall complete the education program established  
19 under Section 9054.0205 before the first anniversary of the date on  
20 which the director was appointed or elected.

21          (b) The district shall reimburse a director for the  
22 reasonable expenses incurred by the director in attending the  
23 education program.

24          (c) A director who is elected to serve a subsequent term  
25 shall fulfill the education requirements specified by district  
26 bylaws.

27          Sec. 9054.0207. DIRECTORS' CONFLICTS OF INTEREST. A

1 director is subject to the provisions of Chapters 171 and 176, Local  
2 Government Code, relating to the regulation of conflicts of  
3 interest of officers of local governments.

4 Sec. 9054.0208. REMOVAL OF DIRECTOR. (a) A director may be  
5 removed from the board by a majority of the other directors if the  
6 director:

7 (1) does not have at the time of appointment the  
8 qualifications required to be eligible to hold office under Section  
9 141.001, Election Code;

10 (2) does not complete the education program as  
11 required by Section 9054.0206;

12 (3) does not meet the qualifications for serving under  
13 Section 9054.0203 or is disqualified from serving under Section  
14 9054.0204;

15 (4) violates Section 9054.0301;

16 (5) misses one-half or more of the regularly scheduled  
17 meetings during the preceding 12 months; or

18 (6) has been convicted or plead guilty to a civil or  
19 criminal offense of:

20 (A) bribery;

21 (B) embezzlement, extortion, or other theft of  
22 public money;

23 (C) perjury;

24 (D) coercion of public servant or voter;

25 (E) tampering with governmental record;

26 (F) misuse of official information;

27 (G) abuse of official capacity;

1           (H) conspiracy to commit or an attempted  
2 commission of an offense described by Paragraphs (A)-(G); or

3           (I) an offense related to the management or  
4 governance of the district.

5           (b) The board shall adopt procedures for the removal of a  
6 director under this section that are designed to provide due  
7 process to the director. Procedures adopted under this subsection  
8 must include reasonable notice and public hearing.

9           (c) The board shall start the process of notice and public  
10 hearing not later than the 30th day after the date the general  
11 manager or a director not subject for removal receives notice of a  
12 violation under Subsection (a). On or before the 60th day after the  
13 date of the public hearing, the remaining board of directors shall  
14 make a determination on whether a violation under Subsection (a)  
15 occurred.

16           (d) Not later than the 30th day after the date the board  
17 votes to remove a director, the board shall start the process to  
18 fill the vacancy to replace the director with a qualified person.

19           (e) Reasonable notice and a public hearing are not required  
20 if the director to be removed expressly and in writing waives the  
21 notice and hearing.

22           Sec. 9054.0209. FILING DIRECTOR'S FINANCIAL STATEMENT. (a)  
23 A director shall file the financial statement required of state  
24 officers under Subchapter B, Chapter 572, Government Code, with the  
25 Texas Ethics Commission.

26           (b) Subchapter B, Chapter 572, Government Code:

27           (1) applies to a director as if the director were a



1 state officer; and

2 (2) governs the contents, timeliness of filing, and  
3 public inspection of a statement filed under Subsection (a).

4 (c) A director commits an offense if the director fails to  
5 file the statement required by Subsection (a). An offense under  
6 this subsection is a Class B misdemeanor.

7 Sec. 9054.0210. SPECIAL DIRECTOR. (a) The governing body  
8 of a municipality that enters into a contract or agreement with a  
9 district located within at least 80 percent of the corporate limits  
10 or extraterritorial jurisdiction of a municipality may appoint a  
11 special director to the board. The governing body may appoint not  
12 more than one special director to serve at a time, irrespective of  
13 the number of contracts or agreements that are in effect.

14 (b) Notwithstanding Section 51.072, Water Code, a special  
15 director is not required to own land subject to taxation in the  
16 district or be a qualified voter of the district.

17 (c) A special director serves as a director only during the  
18 period a contract or agreement described by Subsection (a) is in  
19 effect. If a contract or agreement is in effect for a term of more  
20 than four years, a special director serves a four-year term of  
21 office. The governing body of the municipality that appointed a  
22 special director shall fill a vacancy in the office of special  
23 director.

24 (d) A special director may vote only on a matter before the  
25 board that is directly related to the subject of the contract or  
26 agreement between the municipality and the district.

27 (e) A matter on which a special director may vote requires

1 at least four affirmative votes for passage.

2 SUBCHAPTER D. DISTRICT ADMINISTRATION

3 Sec. 9054.0301. PROHIBITED CONDUCT FOR DIRECTORS AND  
4 DISTRICT EMPLOYEES. A director or a district employee may not:

5 (1) accept or solicit a gift, favor, or service that:

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

8 (B) the director or employee knows or should know  
9 is offered with the intent to influence the director's or employee's  
10 official conduct;

11 (2) accept other employment or engage in a business or  
12 professional activity that the director or employee might  
13 reasonably expect would require or induce the director or employee  
14 to disclose confidential information acquired in the course of the  
15 director's or employee's duties under this chapter;

16 (3) accept other employment or compensation that could  
17 reasonably be expected to impair the director's or employee's  
18 independent judgment in the performance of the director's or  
19 employee's duties under this chapter;

20 (4) make personal investments that could reasonably be  
21 expected to create a substantial conflict between the director's or  
22 employee's private interest and the interest of the district;

23 (5) intentionally or knowingly solicit, accept, or  
24 agree to accept a benefit for the director's or employee's exercise  
25 of powers under this chapter or performance of duties under this  
26 chapter in favor of a third party;

27 (6) have a personal interest in an agreement executed

1 by the district; or

2 (7) be employed by, participate in the management of,  
3 or have a substantial interest in a business entity or other  
4 organization, other than a governmental entity, which receives  
5 money from the district.

6 Sec. 9054.0302. PROHIBITED HIRING OR CONTRACTING  
7 PRACTICES. If a director is an employee of another taxing entity or  
8 economic development corporation located in Hidalgo County, the  
9 board may not employ as an employee, as a consultant, or on a  
10 contract basis:

11 (1) an elected official of the other taxing entity or  
12 economic development corporation that employs the director; or

13 (2) a person related within the third degree of  
14 consanguinity or affinity, as determined under Chapter 573,  
15 Government Code, to an elected official described by Subdivision  
16 (1).

17 Sec. 9054.0303. POWERS AND DUTIES OF BOARD MEMBERS. (a)  
18 The president is the chief executive officer of the district and  
19 presides at all meetings of the board. The president may execute  
20 documents on behalf of the district.

21 (b) The vice president shall act as president in the absence  
22 or disability of the president.

23 Sec. 9054.0304. GENERAL MANAGER. (a) The district shall  
24 employ a general manager.

25 (b) The general manager serves at the pleasure of and  
26 reports only to the board.

27 (c) The general manager may not serve as a director on the

1 board of directors of the district.

2 (d) To be eligible to serve as the general manager, a person  
3 must:

4 (1) have previous administrative experience and  
5 training applicable to special districts as general manager; and

6 (2) be qualified to perform the duties described by  
7 Section 9054.0305.

8 (e) The general manager is subject to the standards for  
9 disqualification for serving as a director described by Section  
10 9054.0204. A person applying to serve as general manager of the  
11 district shall disclose any potential violations of Section  
12 9054.0204 before accepting the position of general manager.

13 (f) The board shall determine the compensation and terms of  
14 employment for the general manager. The board may increase the  
15 compensation of the general manager in an amount not to exceed 10  
16 percent of the amount of the general manager's compensation  
17 immediately before the effective date of the increase. If the board  
18 enters into an employment contract with the general manager, the  
19 term of the contract may not exceed two years.

20 (g) A failure of the general manager to disclose any  
21 potential violations of Section 9054.0204 is a ground for the  
22 general manager's termination.

23 Sec. 9054.0305. DUTIES OF GENERAL MANAGER. (a) The board  
24 may delegate duties to the general manager except as provided by  
25 Subsection (c). The board may not assign the general manager's  
26 duties to any other person.

27 (b) The general manager shall:

- 1           (1) manage the overall strategy and operations of the  
2 district's projects, services, budget, finances, and community  
3 relations subject only to orders of the board;
- 4           (2) consult with, advise, and support the board to  
5 efficiently accomplish the purposes of the district and to ensure  
6 compliance with all regulatory, financing, and legal requirements;
- 7           (3) assist the board in planning, developing, and  
8 implementing policies to accomplish the purposes of the district;
- 9           (4) develop and implement policies to improve the  
10 district's communication with the district's service community;
- 11           (5) provide leadership and supervision to district  
12 employees;
- 13           (6) create and maintain organizational charts to  
14 improve the district's effectiveness;
- 15           (7) coordinate and develop short-term and long-term  
16 goals for the district;
- 17           (8) monitor current district projects and prioritize  
18 future district projects;
- 19           (9) evaluate contracts, grants, and commitments as  
20 authorized by the board;
- 21           (10) plan, organize, and direct district programs and  
22 services, evaluate the results of those programs and services, and  
23 recommend policies, procedures, and board actions based on that  
24 evaluation;
- 25           (11) employ all persons necessary for the proper  
26 handling of the business and operation of the district and  
27 determine the compensation of those employees; and

1           (12) perform other general responsibilities as  
2 determined by the board.

3           (c) The board may not authorize the general manager or other  
4 employee of the district to execute a contract or documents on  
5 behalf of the district that have a value of \$10,000 or more.

6           Sec. 9054.0306. EXCLUSION OF TERRITORY. (a) This section  
7 applies to the exclusion of territory by the district under the  
8 authority of Subchapters J and J-1, Chapter 49, Water Code, and  
9 Subchapter O, Chapter 51, Water Code.

10           (b) The district may exclude territory on the basis that the  
11 land is in agricultural use only if the land meets the requirements  
12 for agricultural use under Section 23.51, Tax Code.

13           (c) The district may exclude territory on the basis that the  
14 land is nonirrigated property only if the land meets the  
15 requirements for nonirrigated property under Section 49.309, Water  
16 Code.

17           (d) The district may exclude territory on the basis of the  
18 property being urban property only if the property meets the  
19 requirements of Section 49.3181, Water Code.

20           (e) The district may not exclude territory during the period  
21 of time between the first day that a candidate may file an  
22 application under Section 141.040, Election Code, and the day of  
23 the election in which that candidate appears on the ballot.

24           (f) The board may not initiate an exclusion of territory  
25 unless the board receives an application or petition requesting the  
26 exclusion as provided by Subchapter O, Chapter 51, Water Code.

1                    SUBCHAPTER E. OPERATING PROVISIONS

2                    Sec. 9054.0401. WATER CHARGES. The district may not charge  
3 a rate for the delivery of water to all customers that is greater  
4 than the lowest comparable delivery rate charged by any other  
5 irrigation district in Hidalgo County.

6                    Sec. 9054.0402. ADDITION OF TERRITORY. The district may  
7 not annex or otherwise add territory to the district.

8                    Sec. 9054.0403. CONSTRUCTION OR EXPANSION OF WATER DELIVERY  
9 SYSTEM. The district may not construct or extend any water delivery  
10 system beyond the district boundaries, as those boundaries existed  
11 on April 1, 2022.

12                    Sec. 9054.0404. INFORMATION REQUIRED ON DISTRICT WEBSITE.

13                    (a) The district shall maintain and update an Internet website.

14                    (b) The district shall post regularly for public viewing on  
15 the district's Internet website in a manner that is searchable and  
16 intuitive to users:

17                    (1) the annual financial statement required by Section  
18 140.005, Local Government Code;

19                    (2) the annual audit report required by Section  
20 49.191, Water Code, or the annual financial dormancy affidavit  
21 submitted under Section 49.197, Water Code;

22                    (3) budget information of the district described by  
23 Sections 26.18(4)-(8), Tax Code;

24                    (4) property tax rate information of the district  
25 described by Sections 26.18(9), (10), (12), and (13), Tax Code;

26                    (5) operating information of the district described by  
27 Sections 2051.202(d)(2)-(14), Government Code, if applicable,

1 including the name of the general manager; and

2 (6) financial information of the district that  
3 satisfies the requirements of Sections 403.0241(c)(9)-(11),  
4 Government Code.

5 (c) The district shall update the information under this  
6 section routinely as the information and documents become available  
7 to and are provided by the designated officers or employees of the  
8 district.

9 (d) Not later than the third day before the date a meeting is  
10 held by the district, the district shall publish on the district's  
11 Internet website the agenda for the meeting.

12 (e) Not later than the third day after the date the district  
13 adopts the minutes of a meeting held by the district, the district  
14 shall publish on the district's Internet website the minutes  
15 adopted by the district.

16 Sec. 9054.0405. SEARCHABLE DISTRICT EXPENDITURE DATABASE.

17 (a) The district shall establish and post on the district's  
18 Internet website a database of district check register reports,  
19 including district expenditures and contracts. The database must  
20 include the amount, date, description, payor, and payee of the  
21 expenditures and, if applicable, parties to the contract.

22 (b) The district may not include in the database developed  
23 under Subsection (a) a district employee's:

24 (1) personal identifying information, as defined by  
25 Section 521.002, Business & Commerce Code; or

26 (2) salary.

27 (c) The district shall display prominently on the



1 district's Internet website a link to the database established  
2 under this section.

3 (d) The information provided in the district check register  
4 reports must be updated monthly.

5 (e) The district shall maintain in the database information  
6 related to an adopted budget as required by this section until the  
7 third anniversary of the date the budget was adopted.

8 Sec. 9054.0406. ANNUAL FINANCIAL AUDIT REPORT PROVIDED TO  
9 COMMISSION. (a) The district is subject to the audit requirements  
10 of Section 49.191, Water Code, unless the district meets the  
11 requirements of Section 49.197, Water Code. The district is not  
12 exempt under Section 49.198, Water Code, from the audit report  
13 unless the district has no outstanding debt obligation or has not  
14 issued a public security, as defined by Section 1201.002,  
15 Government Code, during the fiscal year.

16 (b) The district shall include in the annual audit report  
17 budget-to-actual comparisons in connection with general purpose  
18 external financial reporting to demonstrate compliance with  
19 applicable law. The district shall include a budgetary comparison  
20 schedule of the proprietary fund or enterprise fund to demonstrate  
21 compliance with applicable law and contractual provisions.

22 (c) The district shall include in the annual audit report a  
23 statistical section that provides a range of trend data covering  
24 key financial indicators from the immediately preceding 10 fiscal  
25 years, including general government revenues and expenditures,  
26 property tax collections, and debt burden.

27 (d) The district shall prepare and present the commission's

1 supplementary information schedules in the district's annual audit  
2 report. If the district generated more than 70 percent of its  
3 operating revenue for the delivery of raw water used for municipal  
4 purpose, the district may not claim in its annual audit report the  
5 exemption applicable to a district whose only purpose is to provide  
6 irrigation or navigation facilities or services.

7 (e) The information required by this section must be  
8 subjected to the auditing procedures applied in the audit of the  
9 basic financial statements and, accordingly, the independent  
10 auditor's opinion of the information.

11 (f) Not later than the third day after the date the  
12 accountant finalizes the audit required by this section, the  
13 district shall publish the audit on the district's Internet  
14 website.

15 Sec. 9054.0407. REVIEW AND COMMENT ON BUDGET. The district  
16 shall develop and implement a program that provides the district's  
17 wholesale customers an opportunity to review and comment on the  
18 district's annual budget that applies to the wholesale customers'  
19 services before the board adopts that budget.

20 Sec. 9054.0408. INTERNET POSTING OF MEETING MATERIALS;  
21 RECORDING OF CERTAIN HEARINGS. The district is subject to the  
22 requirements of Section [551.1283](#), Government Code.

23 SECTION 2. (a) A person who has served as a director of the  
24 Hidalgo County Water Improvement District No. 3 for more than eight  
25 consecutive years as of the effective date of this Act is  
26 disqualified from serving another term as a director of that  
27 district.

1           (b) A director described by Subsection (a) of this section  
2 serving on the board of directors of the Hidalgo County Water  
3 Improvement District No. 3 immediately before the effective date of  
4 this Act may continue to serve as director of that district for the  
5 remainder of the director's term.

6           SECTION 3. Not later than the 30th day after the effective  
7 date of this Act, the board of directors of the Hidalgo County Water  
8 Improvement District No. 3 shall adopt procedures for the removal  
9 of a director of that district under Section 9054.0208, Special  
10 District Local Laws Code, as added by this Act.

11           SECTION 4. Sections 1 through 7, Chapter 1022 (S.B. 2185),  
12 Acts of the 87th Legislature, Regular Session, 2021, are repealed.

13           SECTION 5. (a) The legal notice of the intention to  
14 introduce this Act, setting forth the general substance of this  
15 Act, has been published as provided by law, and the notice and a  
16 copy of this Act have been furnished to all persons, agencies,  
17 officials, or entities to which they are required to be furnished  
18 under Section 59, Article XVI, Texas Constitution, and Chapter 313,  
19 Government Code.

20           (b) The governor, one of the required recipients, has  
21 submitted the notice and Act to the Texas Commission on  
22 Environmental Quality.

23           (c) The Texas Commission on Environmental Quality has filed  
24 its recommendations relating to this Act with the governor, the  
25 lieutenant governor, and the speaker of the house of  
26 representatives within the required time.

27           (d) All requirements of the constitution and laws of this

1 state and the rules and procedures of the legislature with respect  
2 to the notice, introduction, and passage of this Act are fulfilled  
3 and accomplished.

4 SECTION 6. This Act takes effect immediately if it receives  
5 a vote of two-thirds of all the members elected to each house, as  
6 provided by Section 39, Article III, Texas Constitution. If this  
7 Act does not receive the vote necessary for immediate effect, this  
8 Act takes effect September 1, 2023.