

By: Hinojosa

S.B. No. 1188

A BILL TO BE ENTITLED

AN ACT

1
2 relating to receivership of the Agua Special Utility District and
3 requirements for the board of directors of the Agua Special Utility
4 District.

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

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

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

9 (1) reside in the subdistrict represented by that
10 position; ~~and~~

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

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

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

18 SECTION 2. Section 7201.058, Special District Local Laws
19 Code, is amended by amending Subsection (a) and adding Subsections
20 (c), (d), and (e) to read as follows:

21 (a) A director shall ~~may~~ be removed from the board by a
22 majority of the other directors if the director:

23 (1) does not have at the time of appointment the
24 qualifications required by Section 7201.055(b) or is disqualified

1 from serving under Section 7201.059;

2 (2) does not complete the education program required
3 by Section 7201.054;

4 (3) does not meet the eligibility requirements under
5 Section 7201.072;

6 (4) fails to comply with Section 7201.071; [~~or~~]

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

9 (6) repeatedly fails to file an affidavit under
10 Section 553.002, Government Code, disclosing an interest in
11 property to be acquired with public money;

12 (7) repeatedly fails to file a conflicts disclosure
13 statement under Section 176.003, Local Government Code;

14 (8) fails to comply with Section 171.004, Local
15 Government Code;

16 (9) does not file the financial statement required of
17 state officers under Section 7201.056; or

18 (10) does not file a campaign treasurer appointment
19 form or a required report under Section 7201.055.

20 (c) A director shall be removed from the board by the other
21 directors if the director has been convicted of or has pleaded
22 guilty or nolo contendere to a civil or criminal offense of:

23 (1) bribery;

24 (2) embezzlement, extortion, or other theft of public
25 money;

26 (3) perjury;

27 (4) coercion of a public servant or voter;

- 1 (5) tampering with a governmental record;
- 2 (6) misuse of official information;
- 3 (7) abuse of official capacity; or
- 4 (8) conspiracy to commit or an attempted commission of
- 5 an offense described by Subdivisions (1)-(7).

6 (d) The board shall begin the process of notice and public
7 hearing for the removal of a director not later than the 30th day
8 after the date the board receives notice of a violation under this
9 section. On or before the 60th day after the date of the public
10 hearing, the remaining directors shall make a determination on
11 whether the violation occurred.

12 (e) Not later than the 30th day after the date the board
13 removes a director, the board shall begin the process of filling the
14 vacancy in accordance with Section 49.105, Water Code.

15 SECTION 3. Subchapter B, Chapter 7201, Special District
16 Local Laws Code, is amended by adding Sections 7201.059 and
17 7201.060 to read as follows:

18 Sec. 7201.059. DISQUALIFICATION OF DIRECTORS. A director
19 is disqualified from serving as a director if:

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

22 (2) the director does not:

23 (A) meet the eligibility requirements under
24 Section 7201.072;

25 (B) file a campaign treasurer appointment form
26 required under Section 7201.055(b)(3); or

27 (C) file each report required under Section

1 7201.055(b)(4); or

2 (3) the board determines a relationship or employment
3 exists to which Section 49.052, Water Code, applies.

4 Sec. 7201.060. AUTOMATIC RESIGNATION OF DIRECTOR ON
5 CANDIDACY FOR OTHER ELECTIVE OFFICE. If a director announces the
6 director's candidacy, or in fact becomes a candidate, in any
7 general, special, or primary election for any elective office other
8 than the office of director for the district, that announcement or
9 candidacy constitutes an automatic resignation of the office of the
10 director.

11 SECTION 4. Subchapter B-1, Chapter 7201, Special District
12 Local Laws Code, is amended by adding Section 7201.075 to read as
13 follows:

14 Sec. 7201.075. PUBLIC ACCESS TO DIRECTOR REPORTS. (a) The
15 district shall post to the district's Internet website and make
16 publicly available each report required to be filed with the Texas
17 Ethics Commission under Title 15, Election Code, by:

18 (1) a director;

19 (2) a candidate for the board; or

20 (3) a specific-purpose committee responsible for
21 supporting, opposing, or assisting a director or candidate for the
22 board.

23 (b) The district shall make available a report under
24 Subsection (a) not later than the fifth business day after the date
25 the report is filed with the board.

26 (c) This section may not be construed to limit public access
27 to information in a report described by Subsection (a) through

1 other electronic or print distribution.

2 (d) The district may remove the address of a person, except
3 for the city, state, and zip code, listed as having made a political
4 contribution to the member, candidate, or committee before posting
5 a report on the district's Internet website. The information must
6 remain available in a copy of the report maintained in the
7 district's office.

8 SECTION 5. Chapter 7201, Special District Local Laws Code,
9 is amended by adding Subchapter E to read as follows:

10 SUBCHAPTER E. RECEIVERSHIP OF DISTRICT; ENFORCEMENT

11 Sec. 7201.301. DEFINITIONS. In this subchapter:

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

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

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

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

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

27 (3) has defaulted on more than one financial debt

1 obligation;

2 (4) has a director or agent who has been convicted of
3 or has pleaded guilty or nolo contendere to a civil or criminal
4 offense related to the management or governance of the district; or

5 (5) violates a final judgment issued by a district
6 court in an action brought by the attorney general under:

7 (A) this chapter;

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

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

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

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

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

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

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

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

23 Sec. 7201.303. POWERS AND DUTIES OF RECEIVER. (a) The
24 receiver shall execute a bond in an amount to be set by the court to
25 ensure the proper performance of the receiver's duties.

26 (b) After appointment and execution of bond, the receiver
27 shall take possession of the assets of the district specified by the

1 court.

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

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

- 9 (1) meter reading;
10 (2) billing for services;
11 (3) collecting revenue;
12 (4) disbursing funds;
13 (5) accessing all system components; and
14 (6) requesting rate increases.

15 Sec. 7201.304. DISSOLUTION OF RECEIVERSHIP. The court may
16 dissolve the receivership and order the assets and control of the
17 business returned to the district if the district shows good cause
18 for the dissolution of the receivership.

19 Sec. 7201.305. EFFECT ON COMMISSION ENFORCEMENT AUTHORITY.
20 This section does not affect the authority of the commission to
21 pursue an enforcement action against the district or an affiliated
22 person.

23 SECTION 6. Not later than the 30th day after the effective
24 date of this Act, the board of directors of the Agua Special Utility
25 District shall adopt or update procedures for the removal of a
26 director under Section [7201.058](#), Special District Local Laws Code,
27 as amended by this Act.

1 SECTION 7. This Act takes effect September 1, 2023.