

AN ACT

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

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

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

(1) does not have at the time of appointment the qualifications required by Section 7201.055(b) or is disqualified from serving under Section 7201.059;

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

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

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

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

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

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

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

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

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

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

22 (1) bribery;

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

25 (3) perjury;

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

27 (5) tampering with a governmental record;

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

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

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 becomes a candidate in any general,
7 special, or primary election for any elective office other than the
8 office of director for the district, that announcement or candidacy
9 constitutes an automatic resignation of the office of the director.

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

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

17 (1) a director;

18 (2) a candidate for the board; or

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

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

25 (c) This section may not be construed to limit public access
26 to information in a report described by Subsection (a) through
27 other electronic or print distribution.

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

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

9 SUBCHAPTER E. RECEIVERSHIP OF DISTRICT; ENFORCEMENT

10 Sec. 7201.301. DEFINITIONS. In this subchapter:

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

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

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

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

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

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

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

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

6 (A) this chapter;

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

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

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

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

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

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

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

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

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

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

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

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

8 (1) meter reading;

9 (2) billing for services;

10 (3) collecting revenue;

11 (4) disbursing funds;

12 (5) accessing all system components; and

13 (6) requesting rate increases.

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

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

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

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

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1188 passed the Senate on April 17, 2023, by the following vote: Yeas 31, Nays 0; May 16, 2023, Senate refused to concur in House amendment and requested appointment of Conference Committee; May 17, 2023, House granted request of the Senate; May 22, 2023, Senate adopted Conference Committee Report by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 1188 passed the House, with amendment, on May 9, 2023, by the following vote: Yeas 125, Nays 17, two present not voting; May 17, 2023, House granted request of the Senate for appointment of Conference Committee; May 24, 2023, House adopted Conference Committee Report by the following vote: Yeas 129, Nays 14, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor