

By: Hinojosa  
(Muñoz, Jr.)

S.B. No. 1188

Substitute the following for S.B. No. 1188:

By: King of Uvalde

C.S.S.B. No. 1188

A BILL TO BE ENTITLED

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.

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

12           SECTION 3. Subchapter B, Chapter 7201, Special District  
13 Local Laws Code, is amended by adding Sections 7201.059 and  
14 7201.060 to read as follows:

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

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

19           (2) the director does not:  
20                   (A) meet the eligibility requirements under  
21 Section 7201.072;

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

24                   (C) file each report required under Section  
25 7201.055(b)(4); or

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

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

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

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

14               (1) a director;

15               (2) a candidate for the board; or

16               (3) a specific-purpose committee responsible for  
17 supporting, opposing, or assisting a director or candidate for the  
18 board.

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

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

25       (d) The district may remove the address of a person, except  
26 for the city, state, and zip code, listed as having made a political  
27 contribution to the director, candidate, or committee before

1 posting a report on the district's Internet website. The  
2 information must remain available in a copy of the report  
3 maintained in the district's office.

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

6 SUBCHAPTER E. RECEIVERSHIP OF DISTRICT; ENFORCEMENT

7 Sec. 7201.301. DEFINITIONS. In this subchapter:

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

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

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

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

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

23 (3) has defaulted on more than one financial debt  
24 obligation;

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

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

3                   (A) this chapter;

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

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

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

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

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

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

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

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

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

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

25           (c) Until discharged by the court, the receiver shall  
26 perform the duties that the court directs to preserve the assets and  
27 carry on the business of the district and shall strictly observe the

1 final order involved.

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

5 (1) meter reading;

6 (2) billing for services;

7 (3) collecting revenue;

8 (4) disbursing funds;

9 (5) accessing all system components; and

10 (6) requesting rate increases.

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

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

19 SECTION 6. Not later than the 30th day after the effective  
20 date of this Act, the board of directors of the Agua Special Utility  
21 District shall adopt or update procedures for the removal of a  
22 director under Section 7201.058, Special District Local Laws Code,  
23 as amended by this Act.

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