

By: Hinojosa

S.B. No. 1848

A BILL TO BE ENTITLED

AN ACT

relating to the dissolution by election of certain urban area water control and improvement districts.

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

SECTION 1. Chapter 51, Water Code, is amended by adding Subchapter S to read as follows:

SUBCHAPTER S. DISSOLUTION OF CERTAIN URBAN AREA DISTRICTS

Sec. 51.901. DEFINITION. In this subchapter, "primary petitioner" means a person who submits a petition for the dissolution of a district.

Sec. 51.902. DISSOLUTION BY ELECTION. (a) A board shall order an election on the question of dissolving the district if:

(1) the board receives a petition for the dissolution of the district in accordance with Section 51.830;

(2) the board receives an ordinance adopted by the governing body of the municipality within the district's boundaries supporting the petition and stating that the municipality is both capable of performing and willing to perform the services and functions of the district; and

(3) the district meets the following criteria of an urban area district:

(A) the district is located entirely in a county with a population of more than 400,000;

(B) the district has 70 percent or more of its

1 territory within the corporate limits or extraterritorial
2 jurisdiction of a municipality, as shown by the most recent tax
3 rolls of the central appraisal district of the county;

4 (C) the district performs services and functions
5 that a municipality within the district's boundaries is both
6 capable of performing and willing to perform;

7 (D) the district was created or organized before
8 1971 under general law enacted in 1904, 1913, 1917, 1918, or 1925
9 for the principal purpose of supplying or the delivery of raw,
10 untreated, or nonpotable water for irrigation or farming purposes;
11 and

12 (E) the district either:

13 (i) generates more than 70 percent of the
14 district's operating revenue from a municipality for supplying or
15 the delivery of raw water used for municipal purposes, as shown by
16 the district's most recent financial audit report; or

17 (ii) generates less than 15 percent of the
18 district's operating revenue from raw, untreated, or nonpotable
19 water sales and a flat rate assessment collected from nonmunicipal
20 customers, as shown by the district's most recent annual financial
21 audit report.

22 (b) After the board receives a petition that meets the
23 requirements of Section 51.903, the district may not:

24 (1) sell, transfer, or encumber a district asset;

25 (2) issue debt or acquire an additional obligation;

26 (3) default on or fail to honor a financial, legal, or
27 other obligation of the district;

1 (4) fail to keep an asset of the district in a
2 condition of good repair; or

3 (5) fail to preserve district records, including
4 information maintained by the district in an electronic format.

5 (c) A district action that is in violation of Subsection
6 (b)(1), (2), or (3) is void.

7 Sec. 51.903. REQUIREMENTS FOR PETITION TO DISSOLVE
8 DISTRICT. A petition for an election to dissolve a district under
9 Section 51.902(a)(1) must:

10 (1) be signed by:

11 (A) the owners of a majority of the assessed
12 value of the real property in the district, as shown by the most
13 recent certified county property tax rolls; or

14 (B) 20 percent of the qualified voters, as
15 defined by Section 11.002, Election Code, residing within the
16 district, without consideration of any exclusion of land from
17 inside the district;

18 (2) include with each signature:

19 (A) the date on which the person signed the
20 petition; and

21 (B) the person's place of residence;

22 (3) be filed with the county clerk of the county in
23 which the district is located; and

24 (4) be filed with the municipality within the
25 district's boundaries or, if the district is located in more than
26 one municipality, the municipality in which most of the district is
27 located.

1 Sec. 51.904. EXAMINATION OF PETITION TO DISSOLVE DISTRICT.

2 (a) The county clerk, in consultation with the district attorney
3 and the county tax assessor-collector, shall examine a petition
4 submitted under Section 51.902(a)(1).

5 (b) Not more than 30 days after the petition is submitted,
6 the county clerk shall determine whether the petition conforms to
7 the petition requirements under Section 51.903.

8 (c) If the petition meets the petition requirements under
9 Section 51.903, the county clerk shall certify the petition and
10 send it electronically to the district secretary and the primary
11 petitioner.

12 (d) If the petition does not meet the petition requirements
13 under Section 51.903, the county clerk shall notify the primary
14 petitioner of the reasons for the rejection of the petition. The
15 primary petitioner may amend the petition to correct the
16 deficiencies for which the petition was rejected and resubmit the
17 petition to the board and the county clerk.

18 Sec. 51.905. PROCEDURE FOR HOLDING ELECTION. (a) An

19 election to determine whether a district will be dissolved must be
20 held in accordance with this subchapter. The election must be held
21 within the shared boundaries of the territory of the district and
22 the municipality described in Section 51.902(a)(2) to determine if
23 the eligible voters within those boundaries support the district's
24 dissolution and the transfer of the district's assets, debts,
25 contractual rights, and other obligations to the municipality. The
26 boundaries shall not take into consideration any exclusion of land
27 from inside the district when determining the district's territory.

1 (b) To be eligible to vote in an election to dissolve the
2 district, a person must be a qualified voter, as defined by Section
3 11.002, Election Code, residing within the shared boundaries of
4 both the district and the municipality described in Section
5 51.902(a)(2).

6 (c) The ballots for the election shall be printed to provide
7 for voting for or against the proposition to dissolve the district
8 and to transfer all district assets, debts, contractual rights, and
9 other obligations to the municipality.

10 (d) Notwithstanding Section 41.001(d), Election Code, on
11 request of the primary petitioner, the board shall contract with
12 the county elections administrator as provided by Subchapter D,
13 Chapter 31, Election Code, to perform all duties and functions of
14 the district in relation to an election for the dissolution of the
15 district.

16 (e) If the primary petitioner requests that the board
17 contract with the county elections administrator, the primary
18 petitioner must deposit with the board an amount estimated to cover
19 expenses in accordance with a cost schedule agreed on by the board
20 and county elections administrator. The primary petitioner must
21 make the deposit not later than the 10th day after the date the
22 primary petitioner receives a copy of the executed contract from
23 the board.

24 Sec. 51.906. HEARING; FINDINGS OF FACT. (a) Not later than
25 the 10th day after the date the board receives a certified petition,
26 the board shall publish notice of the hearing in accordance with
27 Section 51.782. The notice must include notice to creditors of the

1 district to present claims owed by the district to the board before
2 the date set for the dissolution hearing.

3 (b) Not later than the 10th day after the date the board
4 receives a certified petition, the primary petitioner shall deposit
5 with the board an amount estimated to cover the actual cost of
6 giving notice and holding the hearing.

7 (c) Not later than the 40th day after the date the board
8 receives a certified petition, the board shall conduct a hearing
9 for the purpose of soliciting oral or written public comment in
10 accordance with Section 51.783.

11 (d) The board shall make findings of fact regarding the
12 dissolution of the district, including:

13 (1) a description of each parcel of real property
14 owned by the district and interest in real property owned by the
15 district and, if the property was acquired for delinquent taxes or
16 assessments, the amount of such taxes and assessments on each
17 parcel of property;

18 (2) the amount of each outstanding bond or other
19 indebtedness of the district and the contractual obligation of the
20 district, with the name of the holder and owner of each and a
21 general description of the bond, other indebtedness, or contractual
22 obligation;

23 (3) the amount of uncollected taxes, assessments, and
24 charges levied by the district and the amount levied on each lot or
25 tract of land;

26 (4) a description of the personal property and all
27 other assets of the district; and

1 (5) the estimated cost of dissolution.

2 (e) Not later than 30 days after the dissolution hearing,
3 the board shall file its findings of fact with the county clerk.
4 Not later than 48 hours after the filing, the county clerk shall
5 provide a copy to the governing body of the municipality described
6 by Section 51.903(4). The board shall make the findings of fact
7 available for inspection by the public.

8 Sec. 51.907. MUNICIPAL ORDINANCE REQUIRED. (a) The board
9 may not adopt an election order to dissolve the district unless, not
10 later than 60 days after receiving a copy of the filing described by
11 Section 51.906(e), the governing body of the municipality adopts an
12 ordinance by a two-thirds vote stating that the municipality will
13 assume the assets, debts, contractual rights, and any other
14 obligation of the district upon dissolution of the district. The
15 municipality must submit a copy of the adopted ordinance to the
16 district.

17 (b) The governing body of a municipality that adopts an
18 ordinance under Subsection (a) shall prepare a plan of succession
19 as provided by Sections 43.075(c)-(1), Local Government Code, for
20 the uninterrupted provision of services.

21 (c) An ordinance adopted under Subsection (a) must contain
22 provisions that:

23 (1) eliminate the required payment of any flat tax or
24 assessments paid to the district by landowners in the district;

25 (2) ensure that all water rights are held in trust by
26 the municipality for the uses previously adjudicated;

27 (3) ensure that all individual water users are

1 entitled to continue to use or have access to the same amount of
2 water they were entitled to before the dissolution of the district;

3 (4) require the municipality to perform all the
4 functions of the district, including the provision of services; and

5 (5) ensure delivery of water to landowners at or below
6 the lowest comparable delivery charge imposed by any irrigation
7 district in the county in which the district is located.

8 Sec. 51.908. MUNICIPAL APPROVAL; ELECTION ORDER. (a) Not
9 later than 10 days after the municipality sends a copy of the
10 ordinance adopted under Section 51.907(a) to the board, the board
11 shall order an election on the question of dissolving the district
12 and, if applicable, of transferring the district's assets and
13 obligations to the municipality in accordance with the ordinance.

14 (b) An order calling an election to be held under this
15 section must:

16 (1) state the nature of the election and include the
17 proposition that is to appear on the ballot;

18 (2) provide the date of the election;

19 (3) provide the hours during which the polls will be
20 open;

21 (4) provide the location of the polling places;

22 (5) provide a statement of the functions performed by
23 the district;

24 (6) provide a summary of the plan for dissolution;

25 (7) state the district's current water rate and the
26 date on which the district adopted the rate; and

27 (8) state the most recent district tax rate.

1 Sec. 51.909. NOTICE OF DISSOLUTION ELECTION. (a) The board
2 shall give notice of an election ordered under Section 51.908 by:

3 (1) publishing a substantial copy of the election
4 order in a newspaper with general circulation in the district once a
5 week for two consecutive weeks; and

6 (2) if the district maintains an Internet website,
7 posting a substantial copy of the election order on the district's
8 Internet website.

9 (b) The first publication under Subsection (a)(1) must
10 appear not later than the 30th day before the date set for the
11 election.

12 Sec. 51.910. ELECTION DATE. An election under this
13 subchapter shall be held on the next practicable uniform election
14 date prescribed by Section 41.001, Election Code, but in no event
15 later than the 365th day after the date on which the board adopted
16 the election order.

17 Sec. 51.911. ELECTION RESULTS. (a) The returns of the
18 election shall be canvassed and the result declared by the county
19 elections administrator contracted to administer the election held
20 under Section 51.905.

21 (b) If a majority of the votes in an election held under
22 Section 51.905 favor dissolution, the board shall order that the
23 district be dissolved and shall comply with Section 51.912. The
24 board shall enter an order in its minutes declaring the result of
25 the election.

26 (c) If a majority of the votes in an election held under this
27 subchapter do not favor dissolution, the board shall continue to

1 administer the district, and another election on the question of
2 dissolution may not be held before the first anniversary of the date
3 of the most recent election held on the question of dissolving the
4 district.

5 (d) The order under Subsection (b) shall be filed in the
6 office of the county clerk of the county in which the district is
7 situated and recorded in the deed records.

8 Sec. 51.912. TRANSFER OF ASSETS, OBLIGATIONS, AND PROVISION
9 OF SERVICES. (a) Following the issuance of an order under Section
10 51.911, the board shall:

11 (1) not later than the 10th day after the date the
12 order was issued, make arrangements for the uninterrupted provision
13 of services;

14 (2) not later than the 30th day after the date the
15 order was issued, notify the commission of the dissolution
16 election;

17 (3) not later than the 180th day after the date the
18 order was issued:

19 (A) transfer the ownership of any water rights
20 and certificates of adjudication to the municipality; and

21 (B) transfer the assets, debts, contractual
22 rights, and other obligations of the district to the municipality;

23 (4) provide the district's management and operational
24 records to the municipality; and

25 (5) provide notice and make recordings of transfers
26 under this subsection as required by law.

27 (b) The municipality shall notify the commission regarding

1 any transfer of a certificate of adjudication held by the district
2 to the municipality.

3 (c) Not later than the 45th day after the date the
4 commission receives the notification under Subsection (a)(2) and
5 determines that the requirements of this subchapter have been
6 fulfilled, the commission shall enter an order dissolving the
7 district.

8 (d) The transfer of a district's water rights and any
9 certificate of adjudication to a municipality does not affect the
10 priority, extent, validity, or purpose of a water right or
11 certificate.

12 Sec. 51.913. RECEIVER. (a) If the district fails to comply
13 with Section 51.912, the executive director shall request that the
14 attorney general bring suit for the appointment of a receiver.

15 (b) If the attorney general brings suit for the appointment
16 of a receiver under Subsection (a), a district court shall appoint a
17 receiver if the court finds the appointment is necessary for the
18 transfer of the assets and obligations of the district.

19 (c) The receiver shall execute a bond in the amount set by
20 the court to ensure the proper performance of the receiver's
21 duties.

22 (d) After execution of the bond, the receiver shall take
23 possession of the assets specified by the court.

24 (e) Until discharged by the court, the receiver shall
25 perform the duties as directed by the court to preserve the assets
26 and ensure that district assets and obligations are transferred.

27 SECTION 2. This Act takes effect September 1, 2023.