

BILL ANALYSIS

Senate Research Center
80R2996 SGA-D

H.B. 479
By: Flores (Hinojosa)
Natural Resources
5/2/2007
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, the La Joya Water Supply Corporation (corporation) supplies water and wastewater services to residents in the western part of Hidalgo County and the eastern part of Starr County. As a nonprofit water supply corporation, there is little, if any, oversight of the business operating procedures of the corporation by state agencies. The corporation's lack of institutional oversight and specified guidelines regarding operations of the corporation has resulted in below par administrative and managerial proceedings with respect to its day-to-day activities. H.B. 1358, 79th Legislature, Regular Session, 2005, created the La Joya Special Utility District (district).

H.B. 479 provides for the succession of the La Joya Water Supply Corporation by the La Joya Special Utility District. This bill authorizes the current receiver for the corporation to take all necessary steps to allow the Texas Commission on Environmental Quality to transfer the certificates of convenience and necessity to the district. This bill also establishes a temporary board of directors for the district who will serve until a uniform election is held. This bill requires the temporary board of directors to receive training and establishes an education program for the elected board of directors.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 7201.001, Special District Local Laws Code, adding Subdivision (2-a) to define "director."

SECTION 2. Amends Section 7201.002(c), Special District Local Laws Code, as follows:

(c) Requires the La Joya Water Supply Corporation (corporation) to be dissolved and succeeded without interruption by the La Joya Special Utility District (district) as provided by Subchapter A1, rather than on the effective date of the Act enacting this chapter.

SECTION 3. Amends Section 7201.021, Special District Local Laws Code, by amending Subsections (a), (b), and (d) and adding Subsection (f), as follows:

(a) Requires the receiver for the corporation to transfer the assets, debts, and contractual rights and obligations of the corporation to the district to provide notices and make recordings of the transfer required by the Water Code and general law after the temporary directors listed under Section 7201.051 have qualified for office under Section 49.055, Water Code. Makes a conforming change.

(b) Requires the receiver for the corporation, rather than the board of directors of the corporation, to commence dissolution proceedings of the corporation in accordance with the orders of the receivership court and not later than the 30th day after the date of the transfer under Subsection (a).

(d) Requires the receiver for the corporation to notify the Texas Commission on Environmental Quality (TCEQ) of the dissolution of the corporation and its succession in

interest by the district in order to effect the transfer of Certificates of Convenience and Necessity Nos. 10559 and 20785 to the district. Deletes existing text requiring the board of the corporation to notify TCEQ of the dissolution of the corporation and the creation of the district to replace it to effect the transfer of Certificates of Convenience and Necessity Nos. 10559 and 20785 to the district.

(f) Requires the court to terminate the receivership after TCEQ takes the action required by Subsection (e).

SECTION 4. Amends Section 7201.022, Special District Local Laws Code, as follows:

Sec. 7201.022. EXPIRATION OF SUBCHAPTER. Provides that this subchapter expires September 1, 2010, rather than September 1, 2008.

SECTION 5. Amends Sections 7201.051(a) and (b), Special District Local Laws Code, as follows:

(a) Provides that the temporary board consists of seven directors who are required to serve until successor directors are elected and qualify for office, rather than until the effective date of this Act.

(b) Sets forth the persons who are to serve as the temporary directors of the district, who are assigned certain position numbers.

SECTION 6. Amends Subchapter B, Chapter 7201, Special District Local Laws Code, by adding Sections 7201.0512 and 7201.0513, as follows:

Sec. 7201.0512. TEMPORARY BOARD TRAINING. (a) Requires each temporary director to complete at least 12 hours of training on district management and compliance with laws applicable to the district as determined by the receiver for the corporation before December 31, 2007.

(b) Requires the district to reimburse a temporary director for the reasonable expenses incurred by the director in attending the training.

Sec. 7201.0513. EDUCATION PROGRAM. (a) Requires the temporary board to establish a program of education for directors that includes certain information before the first election of directors.

(b) Requires the district to pay any costs associated with the development of the education program from district revenue.

(c) Authorizes the education program to include training provided by an organization offering courses that have been approved by TCEQ.

(d) Authorizes the board to adopt bylaws modifying the education program as necessary to meet district needs.

SECTION 7. Amends Section 7201.052, Special District Local Laws Code, by amending Subsections (a), (f), (g), and (h) and adding Subsections (i), (j), and (k), as follows:

(a) Requires the district to be governed by a board of seven directors, rather than not fewer than nine and not more than 11 directors. Deletes existing text providing that the directors be elected in accordance with Section 49.103 (Terms of Office of Directors), Water Code, notwithstanding Subsection (f)(2) of that section.

(f) Requires the district to hold an election to elect two, rather than three, directors to serve in positions 1 and 2, rather than 1, 4, and 7, on the uniform election date in May 2008, or in May 2009, rather than 2006, if the election is postponed under Subsection (i), and on that uniform election date every third year after that date.

(g) Requires the district to hold an election to elect two, rather than three, directors to serve in positions 3 and 4, rather than 2, 3, and 5, on the uniform election date in May 2009, or in May 2010, rather than 2007, if the election is postponed under Subsection (i) and on that uniform election date every third year after that date.

(h) Requires the district to hold an election to elect three directors to serve in positions 5, 6, and 7, rather than 6, 8, and 9, on the uniform election date in May 2010, or in May 2011, rather than 2008, if the election is postponed under Subsection (i), and on that uniform election date every third year after that date.

(i) Authorizes the temporary board by order to postpone, until the uniform election date in May of the following year, the first election for directors under each of Subsections (f), (g), and (h) if the temporary board determines that there is insufficient time to comply with the requirements of law and to order the first election of directors to be held on the first uniform date specified by Subsection (f).

(j) Prohibits a director from serving consecutive terms.

(k) Provides that person who has served as a member of the board of directors of the corporation is not eligible to serve as a district director.

SECTION 8. Amends Subchapter B, Chapter 7201, Special District Local Laws Code, by adding Sections 7201.053 and 7201.054, as follows:

Sec. 7201.053. DISTRICT TREASURER. (a) Requires the board to elect from among its members one director to serve as district treasurer.

(b) Requires the district treasurer to comply with the training requirements provided by Section 49.1571, Water Code, for an investment officer of a district.

Sec. 7201.054. EDUCATION FOR DIRECTORS. (a) Requires each elected director to complete the education program established under Section 7201.0513 before the first anniversary of the date on which the director was elected.

(b) Requires the district to reimburse a director for the reasonable expenses incurred by the director in attending the education program.

(c) Requires a director who is elected to serve a subsequent term to fulfill the education requirements specified by the district bylaws.

SECTION 9. (a) Provides that except as otherwise provided by Chapter 7201 (La Joya Special Utility District), Special District Local Laws Code, as amended by this Act, the La Joya Special Utility District is subject to any judicial or administrative order imposing an injunction against the La Joya Water Supply Corporation that is in effect on the date of the transfer under Section 7201.021, Special District Local Laws Code, as amended by this Act, or any judicial or administrative order imposing liability for monetary damages or a civil or administrative penalty against the La Joya Water Supply Corporation that is unsatisfied on the date of the transfer under Section 7201.021, Special District Local Laws Code, as amended by this Act.

(b) Provides that this section does not relieve a person who served on the board of directors of the La Joya Water Supply Corporation of any individual or joint and several liability imposed by a court of this state for actions taken by that person on behalf of the corporation or prevent the La Joya Special Utility District from filing a claim for damages against that person.

(c) Provides that the district is subrogated to any rights of that person against the corporation to the extent of the amount paid to that person if the La Joya Special Utility District pays a claim by a person against the La Joya Water Supply Corporation.

SECTION 10. (a) Provides that the legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and

a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313 (Notice For Local and Special Laws), Government Code.

(b) Provides that the governor has submitted the notice and Act to TCEQ.

(c) Provides that TCEQ has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time.

(d) Provides that all requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

SECTION 11. Effective date: upon passage or September 1, 2007.