

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 479
By: Flores (Hinojosa)
Natural Resources
5/10/2007
Committee Report (Substituted)

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).

C.S.H.B. 479 provides for the succession of the La Joya Water Supply Corporation by the Tabasco 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. This bill changes the name from the La Joya Water Supply Corporation to the Tabasco Special Utility District. This bill authorizes city government to make appointments to the board and the county commissioners court to make appointments for the unincorporated areas in the service area. In addition, the assets, debts, contractual rights and obligations of the corporation, as well as all legal claims pending against the corporation in effect on the date of the transfer, are transferred to the district.

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 the heading to Section 7201, Special District Local Laws Code, to read as follows:

CHAPTER 7201. TABASCO SPECIAL UTILITY DISTRICT

SECTION 2. Amends Section 7201.001, Special District Local Laws Code, by amending Subdivision (3) and adding Subdivision (4), to redefine "district" and define "director."

SECTION 3. Amends Section 7201.002(c), Special District Local Laws Code, as follows:

- (c) Requires the La Joya Water Supply Corporation to be dissolved and succeeded without interruption by the Tabasco Special Utility District (district) as provided by Subchapter A1 (Temporary Provisions).

SECTION 4. Amends Section 7201.005, Special District Local Laws Code, by amending Subsections (a) and (b) and adding Subsection (d), as follows:

- (a) Provides that the district is composed of the territory described by Section 12 of the Act enacted by the 80th Legislature, Regular Session, 2007, amending this subsection. Deletes existing text relating to the boundaries of the corporation.

(b) Provides that the boundaries and field notes contained in Section 12 of the Act enacted by the 80th Legislature, Regular Session, 2007, amending this section form a closure. Provides that a mistake made in the field notes or in copying the field notes in the legislative process does not affect certain matters. Deletes existing text providing that a mistake made in the preparation, copying, or filing of the maps described by Subsection (a) and on file with the Texas Commission on Environmental Quality (TCEQ) does not affect certain matters.

(d) Provides that the territory of the district does not include and the district does not have jurisdiction over land that has never been in the service area of the corporation regardless of any erroneous inclusion of that land in the boundaries and field notes in section 12 of the Act enacted by the 80th Legislature, Regular Session, 2007, amending this subsection.

SECTION 5. 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 of the corporation, except as provided by this subsection, after the appointment of initial directors of the board of the district (initial director; board) under Section 7201.051, rather than after the effective date of this Act, to transfer the assets, debts, and contractual rights and obligations of the corporation, including all legal claims against the corporation in effect on the date of the transfer, to the district and provide notices and make recordings of the transfer required by the Water Code and general law. Requires the receiver of the corporation to initiate proceedings to obtain that permission if the transfer of any debt requires the permission of the lender.

(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 6. Amends Section 7201.022, Special District Local Laws Code, as follows:

Sec. 7201.022. EXPIRATION OF SUBCHAPTER. Provides that this subchapter expires September 1, 2012, rather than September 1, 2008.

SECTION 7. Amends Section 7201.051, Special District Local Laws Code, as follows:

Sec. 7201.051. New heading: APPOINTMENT OF INITIAL DIRECTORS.

(a) Requires seven initial directors to be appointed as provided by this section as soon as practicable after the effective date of the of the Act enacted by the 80th Legislature, Regular Session, 2007, amending this subsection. Deletes existing text relating to the service of the directors of the corporation.

(b) Requires an individual to meet the same requirements as a candidate for an elected position as director under Section 7201.052 to be eligible to be appointed as an initial director. Sets forth a certain method for appointing the initial directors. Deletes existing text naming the temporary directors of the district.

(c) Provides that an initial director serves a term that expires on June 1 of the year in which the director's successor is elected under Section 7201.052. Deletes existing text relating to the appointment of a person if there is a vacancy on the temporary board of directors of the district.

SECTION 8. Amends Subchapter B, Chapter 7201, Special District Local Laws Code, by adding Sections 7201.0512 and 7201.0513, as follows:

Sec. 7201.0512. INITIAL BOARD TRAINING. (a) Requires each initial director, not later than the 60th day after the first date on which all of the initial directors have been appointed, 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.

(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 initial board to establish a program of education for directors that includes certain information before the first election of directors under Section 7201.052.

(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 9. Amends Section 7201.052, Special District Local Laws Code, as follows:

Sec. 7201.052. BOARD OF DIRECTORS. (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, elected by electorates.

(b) Requires a candidate for one of the numbered director positions to reside in the part of the service area of the district that is not included in any of the municipalities listed in Subsections (a)(1)-(4), and to be eligible to hold office under Section 141.001 (Eligibility Requirements for Public Office), Election Code. Deletes existing text providing that a candidate for a position as a director is elected at large.

(c) Requires a candidate for one of the director positions representing a municipality listed in Subsection (a)(1), (2), (3), or (4) to reside in the municipality of the candidate seeks to represent, and to be eligible to hold office under Section 141.001 (Eligibility Requirements for Public Office), Election Code.

(d) Redesignated from Subsection (c).

(e) Redesignated from Subsection (d).

(f) Provides that directors serve staggered terms of four years, rather than three years, except for initial directors appointed, rather than listed, under Section 7201.051. Makes a conforming change.

(g) Requires the district to hold an election to elect seven directors on the uniform election date in May 2008, or in May 2010, if the election is postponed under Subsection (h). Requires the district to hold an election to elect the appropriate number of directors, rather than three directors to serve in positions 1,

4, and 7, on the uniform election date in May of each even-numbered year, rather than every third year.

(h) Authorizes the initial board by order to postpone the first election for directors under Subsection (g) until the uniform election date in May 2010, if the initial board determines that there is not sufficient time to comply with the requirements of law and to order the election of directors to be held on the first uniform election date specified by that subsection. Deletes existing text providing for the election of three members in positions 6, 8, and 9 on a certain date.

(i) Requires the directors elected at the first election under Subsection (g) to cast lots to determine which three directors are required to serve terms expiring June 1 of the first even-numbered year after the year in which the directors are elected and which four directors are required to serve terms expiring June 1 of the second even-numbered year after the year in which the directors are elected.

(j) Prohibits a director from serving consecutive terms.

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

(l) Provides that if, before the expiration of the term of a director elected to represent a municipality under Subsection (a)(1), (2), (3), or (4), the district determines that all of the incorporated territory of the municipality is outside the boundaries of the district, the position immediately becomes an at-large numbered position to be filled at the next general election of the district in accordance with Subsections (a)(5) and (b). Deletes existing text providing for the election of three members in positions 2, 3, and 5 on a certain date.

SECTION 10. 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 (Investment Officer), Water Code, for an investment officer of a district.

Sec. 7201.054. EDUCATION FOR DIRECTORS. (a) Requires each elected director, except for an initial director whose term expires in 2008, to complete the education program established under Section 7201.0513 before the first anniversary of the date on which the director was appointed or 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 11. Amends Section 7201.206, Special District Local Laws Code, as follows:

Sec. 7201.206. New heading: RATES AND FEES FOR SERVICES. (a) Creates this subsection from existing text.

(b) Provides that Chapter 395, Local Government Code, does not apply to any fee, charge, or assessment that, before the corporation's dissolution and conversion to a district, is adopted by the receiver for the purpose of generating revenue to fund or recoup the costs of capital improvements or facility expansions necessitated by and attributable to new developments.

(c) Prohibits the district, notwithstanding Subsection (b), beginning on December 31, 2009, from imposing any fee, charge, or assessment that, before the corporation's dissolution and conversion to a district, is adopted by the receiver for the purpose of generating revenue to fund or recoup the costs of capital improvements or facility expansions necessitated by and attributable to new developments unless the district readopts the fee, charge, or assessment or adopts a new fee, charge, or assessment in accordance with Chapter 395, Local Government Code. Provides that this subsection does not apply to a retail water or sewer rate adopted by the receiver or the district.

SECTION 12. Sets forth the boundaries of the district.

SECTION 13. Requires the initial directors of the board to be appointed in accordance with section 7201.051, Special District Local Laws Code, as amended by this Act, as soon as practicable after the effective date of this Act.

SECTION 14. Provides that except as otherwise provided by Chapter 7201 (Tabasco Special Utility District), Special District Local Laws Code, as amended by this Act, the Tabasco 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.

SECTION 15. (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 16. Effective date: upon passage or September 1, 2007.