

BILL ANALYSIS

Senate Research Center
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S.B. 1960
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Natural Resources
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Water supply corporations (WSCs) are nonprofit organizations that perform many of the same functions as other districts under Chapter 49 (Provisions Applicable to All Districts), Texas Water Code, including setting rates. Many cities have raised concerns regarding the accountability and transparency of WSCs, including the potential for fiscal mismanagement and tendencies to control membership on the corporation's board through the use of prize incentives for proxy votes. S.B. 1960 addresses these and other issues regarding WSCs.

As proposed, S.B. 1960 provides that the governing body of each municipality has exclusive original jurisdiction over all rates, operations, and services provided by a water supply or sewer service corporation within the municipality's corporate limits. S.B. 1960 requires a person, to be listed on the ballot as a candidate for election to a director's position, to file with the secretary-treasurer of the corporation's board an application that includes certain information, prohibits a person from using any type of incentive to encourage a member to authorize another individual to act as the member's proxy in casting the vote of the member in a director's election, and requires an independent election auditor to receive and count the ballots before the annual meeting is adjourned. Finally, this bill provides that a WSC is subject to the audit requirements of the Texas Commission on Environmental Quality as currently required for other water districts.

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 Subchapter C, Chapter 13, Water Code, by adding Section 13.0422, as follows:

Sec. 13.0422. MUNICIPAL AND COMMISSION JURISDICTION OVER CERTAIN WATER SUPPLY OR SEWER SERVICE CORPORATIONS. (a) Provides that notwithstanding Section 13.004 (Jurisdiction of Commission over Certain Water Supply or Sewer Service Corporation) or any other provision of this chapter and subject to this section, for the purpose of regulating rates and services so that those rates may be fair, just, and reasonable and the services adequate and efficient, the governing body of each municipality has exclusive original jurisdiction over all rates, operations, and services provided by a water supply or sewer service corporation (corporation) within the municipality's corporate limits. Requires a municipality to exercise that jurisdiction in the same manner, and in accordance with the same limitations, as a municipality exercises its jurisdiction under this chapter over a water or sewer utility that provides service within the municipality's corporate limits.

(b) Authorizes the governing body of a municipality by ordinance to elect to have the Texas Commission on Environmental Quality (TCEQ) exercise exclusive original jurisdiction over the rates, operations, and services provided by a corporation within the municipality's corporate limits.

(c) Provides that TCEQ has exclusive appellate jurisdiction to review orders or ordinances a municipality issues in the exercise of the municipality's original jurisdiction under this section.

SECTION 2. Amends Subchapter A, Chapter 67, Water Code, by adding Sections 67.0061-67.0063, as follows:

Sec. 67.0061. DIRECTOR NOMINATIONS. (a) Requires a person, to be listed on the ballot as a candidate for election to a director's position, to file with the secretary-treasurer of the board of directors of the water supply or sewer service corporation (board) an application that includes certain information.

(b) Requires that the application be filed with the secretary-treasurer of the board not later than the 70th day before the date of the annual meeting.

(c) Requires the secretary-treasurer of the board to make available at the main office of the corporation nomination petition forms.

Sec. 67.0062. BALLOT FOR ELECTION OF DIRECTORS. Requires the secretary-treasurer of the board to have the names of all candidates for each director's position printed on the ballot; and not later than the 45th day before the date of the annual meeting, mail the ballot to each person who is a member or shareholder, along with a statement of the number of directors to be elected and the biographical information about each candidate, including the candidate's qualifications.

Sec. 67.0063. ELECTION OF DIRECTORS. (a) Authorizes a member or a shareholder to vote by certain methods.

(b) Defines "member." Prohibits a person from using any type of incentive to encourage a member to authorize another individual to act as the member's proxy in casting the vote of the member in a director's election.

(c) Requires the independent election auditor to receive and count the ballots before the annual meeting is adjourned.

(d) Provides that for each director's position, the nominee who receives the highest number of votes is elected.

(e) Requires that, if two or more candidates for a director's position tie for the highest number of votes for that position, those candidates draw lots under the independent election auditor to determine who is elected.

(f) Requires the independent election auditor to provide TWDB with a written report of the election results.

(g) Authorizes the board to adopt rules as needed to implement this section, including rules to ensure the fairness, integrity, and openness of the voting process.

SECTION 3. Amends Section 67.007, Water Code, by amending Subsection (b) and adding Subsection (d), as follows:

(b) Requires the board to adopt certain written procedures for conducting an annual or special meeting of the members or shareholders, to include procedures for selecting an independent election auditor required by Section 67.0063. Makes nonsubstantive changes.

(d) Requires an independent election auditor to be selected at least 30 days before each annual meeting at which one or more directors are scheduled to be elected. Prohibits the independent election auditor, at the time of selection and while serving in the capacity of

an independent election auditor, from being associated with the corporation as an employee or independent contractor or a director or candidate for director.

SECTION 4. Amends Subchapter A, Chapter 67, Water Code, by adding Section 67.0085, as follows:

Sec. 67.0085. AUDIT REQUIREMENTS. Provides that Subchapter G (Audit of Districts), Chapter 49 (Provisions Applicable to All Districts), applies to a corporation in the same manner that it applies to a district under that chapter. Defines "board" and "district" for purposes of applying that subchapter to a corporation.

SECTION 5. Requires a corporation operating under Chapter 67 (Nonprofit Water Supply or Sewer Service Corporations), Water Code, to call and hold a special meeting of the members or shareholders to select an independent election auditor at least 30 days before the scheduled date of the 2010 annual meeting of the corporation.

SECTION 6. Provides that a corporation operating under Chapter 67, Water Code, is subject to the audit requirements of Section 67.0085, Water Code, as added by this Act, beginning with the first fiscal year of the corporation that begins on or after September 1, 2009.

SECTION 7. Effective date: September 1, 2009.