

1-1 By: Hinojosa S.B. No. 2552  
1-2 (In the Senate - Filed April 22, 2019; April 23, 2019, read  
1-3 first time and referred to Committee on Intergovernmental  
1-4 Relations; May 3, 2019, reported adversely, with favorable  
1-5 Committee Substitute by the following vote: Yeas 7, Nays 0;  
1-6 May 3, 2019, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			

1-16 COMMITTEE SUBSTITUTE FOR S.B. No. 2552 By: Alvarado

1-17 A BILL TO BE ENTITLED  
1-18 AN ACT

1-19 relating to the administration of the Agua Special Utility  
1-20 District; creating a criminal offense.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Section 7201.0513(a), Special District Local  
1-23 Laws Code, is amended to read as follows:

1-24 (a) Before the first election of directors [~~under Section~~  
1-25 ~~7201.052~~], the initial board shall establish a program of education  
1-26 for directors that includes information on:

1-27 (1) the history of the district;

1-28 (2) the district's enabling legislation;

1-29 (3) Chapters 49 and 65, Water Code, and other laws that  
1-30 apply to the district, including the requirements of the:

1-31 (A) open meetings law, Chapter 551, Government  
1-32 Code; and

1-33 (B) public information law, Chapter 552,  
1-34 Government Code;

1-35 (4) relevant legal developments related to water  
1-36 district governance;

1-37 (5) the duties and responsibilities of the board;

1-38 (6) the requirements of conflict of interest laws and  
1-39 other laws relating to public officials; and

1-40 (7) any applicable ethics policies adopted by the  
1-41 Texas Commission on Environmental Quality or the Texas Ethics  
1-42 Commission.

1-43 SECTION 2. Subchapter B, Chapter 7201, Special District  
1-44 Local Laws Code, is amended by adding Section 7201.055 to read as  
1-45 follows:

1-46 Sec. 7201.055. COMPOSITION OF BOARD; TERMS. (a) The  
1-47 district is governed by a board of seven directors, each of whom  
1-48 occupies a numbered position on the board and represents a unique  
1-49 subdistrict containing, as near as practicable, one-seventh of the  
1-50 total number of residents in the district.

1-51 (b) A candidate for a position on the board must:

1-52 (1) reside in the subdistrict represented by that  
1-53 position; and

1-54 (2) be eligible to hold office under Section 141.001,  
1-55 Election Code.

1-56 (c) The district shall fill a vacancy on the board in  
1-57 accordance with Section 49.105, Water Code.

1-58 (d) Directors serve staggered terms of four years and may  
1-59 not serve more than two consecutive terms.

1-60 (e) A person who has served as a member of the board of

2-1 directors of the corporation is not eligible to serve as a district  
2-2 director.

2-3 (f) If a director is an employee of another taxing entity  
2-4 within the district, the board may not employ as an employee, as a  
2-5 consultant, or on a contract basis:

2-6 (1) an elected official of the other taxing entity  
2-7 that employs the director; or

2-8 (2) a person related to that elected official in the  
2-9 third degree of consanguinity or affinity as determined under  
2-10 Chapter 573, Government Code.

2-11 SECTION 3. Subchapter B, Chapter 7201, Special District  
2-12 Local Laws Code, is amended by adding Sections 7201.056, 7201.057,  
2-13 and 7201.058 to read as follows:

2-14 Sec. 7201.056. FILING OF FINANCIAL STATEMENT BY DIRECTOR.

2-15 (a) A director shall file the financial statement required of  
2-16 state officers under Subchapter B, Chapter 572, Government Code,  
2-17 with the Texas Ethics Commission.

2-18 (b) Subchapter B, Chapter 572, Government Code:

2-19 (1) applies to a director as if the director were a  
2-20 state officer; and

2-21 (2) governs the contents, timeliness of filing, and  
2-22 public inspection of a statement filed under Subsection (a).

2-23 (c) A director commits an offense if the director fails to  
2-24 file the statement required by Subsection (a). An offense under  
2-25 this subsection is a Class B misdemeanor.

2-26 Sec. 7201.057. SUBSTANTIAL BUSINESS INTEREST. For purposes  
2-27 of Chapter 171, Local Government Code, a director, in connection  
2-28 with a vote or decision by the board, is considered to have a  
2-29 substantial interest in a business entity if a person related to the  
2-30 director within the third degree by consanguinity or affinity, as  
2-31 determined under Chapter 573, Government Code, has a substantial  
2-32 interest in the business entity.

2-33 Sec. 7201.058. GROUNDS FOR REMOVAL. A director may be  
2-34 removed from the board if the director:

2-35 (1) does not have at the time of appointment the  
2-36 qualifications required by Sections 7201.055(b);

2-37 (2) does not complete the initial board training  
2-38 required by Section 7201.0512;

2-39 (3) does not complete the education program required  
2-40 by Section 7201.054;

2-41 (4) does not meet the eligibility requirements under  
2-42 Section 7201.072; or

2-43 (5) fails to comply with Section 7201.071.

2-44 SECTION 4. Chapter 7201, Special District Local Laws Code,  
2-45 is amended by adding Subchapter B-1 to read as follows:

2-46 SUBCHAPTER B-1. DISTRICT ADMINISTRATION

2-47 Sec. 7201.071. PROHIBITED CONDUCT FOR DIRECTORS AND  
2-48 DISTRICT EMPLOYEES. A director or district employee may not:

2-49 (1) accept or solicit any gift, favor, or service  
2-50 that:

2-51 (A) might reasonably influence the director or  
2-52 employee in the discharge of an official duty; or

2-53 (B) the director or employee knows or should know  
2-54 is offered with the intent to influence the director's or employee's  
2-55 official conduct;

2-56 (2) accept other employment or engage in a business or  
2-57 professional activity that the director or employee might  
2-58 reasonably expect would require or induce the director or employee  
2-59 to disclose confidential information acquired in the course of the  
2-60 director's or employee's duties under this chapter;

2-61 (3) accept other employment or compensation that could  
2-62 reasonably be expected to impair the director's or employee's  
2-63 independent judgment in the performance of the director's or  
2-64 employee's duties under this chapter;

2-65 (4) make personal investments that could reasonably be  
2-66 expected to create a substantial conflict between the director's or  
2-67 employee's private interest and the interest of the district;

2-68 (5) intentionally or knowingly solicit, accept, or  
2-69 agree to accept a benefit for the director's or employee's exercise

- 3-1 of powers under this chapter or performance of duties under this  
3-2 chapter in favor of a third party; or  
3-3 (6) have a personal interest in an agreement executed  
3-4 by the district.
- 3-5 Sec. 7201.072. ELIGIBILITY OF DIRECTOR AND GENERAL MANAGER.  
3-6 (a) A person is not eligible to serve as a director or general  
3-7 manager of the district if the person or the person's relative  
3-8 within the third degree by consanguinity or affinity, as determined  
3-9 by Chapter 573, Government Code:
- 3-10 (1) received 10 percent or more of gross income for the  
3-11 previous year from a business entity or other organization, other  
3-12 than a governmental entity, that receives money from the district;  
3-13 (2) is employed by or participates in the management  
3-14 of a business entity or other organization, other than a  
3-15 governmental entity, that receives money from the district;  
3-16 (3) directly or indirectly owns or controls more than  
3-17 a 10 percent interest in the fair market value of a business or  
3-18 other organization that receives money from the district;  
3-19 (4) serves as a corporate officer or member of the  
3-20 board of directors of a business entity or other organization that  
3-21 receives money from the district;  
3-22 (5) is a creditor, debtor, or guarantor in an amount of  
3-23 \$5,000 or more of a person or business entity that receives money  
3-24 from the district;  
3-25 (6) uses or receives a substantial amount of tangible  
3-26 goods, services, or money from the district other than compensation  
3-27 or reimbursement authorized by law; or  
3-28 (7) is required to register as a lobbyist under  
3-29 Chapter 305, Government Code, because of the person's activities  
3-30 for compensation on behalf of a profession related to the operation  
3-31 of the district.
- 3-32 (b) A person applying to serve as general manager of the  
3-33 district shall disclose any potential violations of Subsection (a)  
3-34 before accepting the position of general manager.
- 3-35 Sec. 7201.073. GENERAL MANAGER; DUTIES. (a) The board  
3-36 shall employ a person with prior experience and training as general  
3-37 manager.
- 3-38 (b) The duties of the general manager include:
- 3-39 (1) managing the overall strategy and operations of  
3-40 the district's projects, services, budget, finances, and community  
3-41 relations;  
3-42 (2) consulting with, advising, and supporting the  
3-43 board to efficiently accomplish the purposes of the district and to  
3-44 ensure compliance with all regulatory, financing, and legal  
3-45 requirements;  
3-46 (3) assisting the board in planning, developing, and  
3-47 implementing policies to accomplish the purposes of the district;  
3-48 (4) developing and implementing policies to improve  
3-49 the district's communication with the district's service community;  
3-50 (5) providing leadership and supervision to district  
3-51 employees;  
3-52 (6) creating and maintaining organizational charts to  
3-53 improve the district's effectiveness;  
3-54 (7) coordinating and developing short-term and  
3-55 long-term goals for the district;  
3-56 (8) monitoring current district projects and  
3-57 prioritizing future district projects;  
3-58 (9) evaluating contracts, grants, and commitments as  
3-59 authorized by the board;  
3-60 (10) planning, organizing, and directing district  
3-61 programs and services, evaluating the results of those programs and  
3-62 services, and recommending policies, procedures, and board actions  
3-63 based on that evaluation;  
3-64 (11) employing all persons necessary for the proper  
3-65 handling of the business and operation of the district and  
3-66 determining the compensation of those employees; and  
3-67 (12) performing other general responsibilities as  
3-68 determined by the board.
- 3-69 (c) The board may assign the duties under Subsection (b)

4-1 only to the general manager. The board may not assign the duties to  
4-2 any other person.

4-3 (d) The general manager is an employee of the district. The  
4-4 general manager serves at the pleasure of and reports only to the  
4-5 board.

4-6 (e) The board shall determine the compensation and terms of  
4-7 employment for the general manager.

4-8 (f) The board may increase the compensation of the general  
4-9 manager in an amount not to exceed 10 percent of the amount of the  
4-10 general manager's compensation immediately before the effective  
4-11 date of the increase.

4-12 (g) If the board enters into an employment contract with the  
4-13 general manager, the term of the contract may not exceed two years.

4-14 (h) It is a ground for termination of the general manager if  
4-15 the general manager fails to disclose any potential violations of  
4-16 Section 7201.072 as required by that section.

4-17 SECTION 5. Subchapter C, Chapter 7201, Special District  
4-18 Local Laws Code, is amended by adding Section 7201.104 to read as  
4-19 follows:

4-20 Sec. 7201.104. SEARCHABLE DISTRICT EXPENDITURE DATABASE.

4-21 (a) The district shall establish and post on the district's  
4-22 Internet website a database of district check register reports,  
4-23 including district expenditures and contracts. The database must  
4-24 include the amount, date, description, payor, and payee of the  
4-25 expenditures, and, if applicable, parties to the contract.

4-26 (b) The district shall prominently display a link to the  
4-27 database established under this section on the district's Internet  
4-28 website. The information provided in the district check register  
4-29 reports must be updated monthly.

4-30 (c) The district shall keep in the database information  
4-31 required by this section related to an adopted budget until the  
4-32 third anniversary of the date the budget was adopted.

4-33 SECTION 6. Section 7201.201, Special District Local Laws  
4-34 Code, is amended by adding Subsection (c) to read as follows:

4-35 (c) Not later than the third day after the date the  
4-36 accountant finalizes the audit required by this section, the  
4-37 district shall publish the audit on the district's Internet  
4-38 website.

4-39 SECTION 7. Section 7201.204, Special District Local Laws  
4-40 Code, is amended to read as follows:

4-41 Sec. 7201.204. NEWSLETTER, WEBSITE, AND ANNUAL FINANCIAL  
4-42 INFORMATION. (a) The district shall maintain and update monthly  
4-43 an Internet website with current information concerning [~~agendas,~~  
4-44 ~~minutes,~~] policies, monthly financial information concerning  
4-45 revenues and expenses, and monthly [~~quarterly~~] summaries.

4-46 (b) Not later than 72 hours before a meeting held by the  
4-47 district, the district shall publish on the district's Internet  
4-48 website the agenda for the meeting.

4-49 (c) Not later than 72 hours after the date the district  
4-50 adopts the minutes of a meeting held by the district, the district  
4-51 shall publish on the district's Internet website the minutes  
4-52 adopted by the district.

4-53 (d) The district shall provide information, including  
4-54 summary financial information based on the preceding year's annual  
4-55 audit, to district customers at an annual meeting.

4-56 SECTION 8. Effective December 31, 2019, Sections 7201.051  
4-57 and 7201.052, Special District Local Laws Code, are repealed.

4-58 SECTION 9. (a) Not later than December 31, 2019, the board  
4-59 of directors of the Agua Special Utility District shall determine  
4-60 each subdistrict in accordance with Section 7201.055, Special  
4-61 District Local Laws Code, as added by this Act, and in compliance  
4-62 with all applicable provisions of the Election Code.

4-63 (b) The initial election for positions 1, 2, and 3 on the  
4-64 board shall be held on the uniform election date in May 2020. The  
4-65 initial election for positions 4 through 7 shall be held on the  
4-66 uniform election date in May 2022.

4-67 SECTION 10. Not later than January 1, 2020:

4-68 (1) a member of the board of directors of the Agua  
4-69 Special Utility District shall file a financial statement as

5-1 required by Section 7201.056, Special District Local Laws Code, as  
5-2 added by this Act; and

5-3 (2) the Agua Special Utility District shall establish  
5-4 and post on the district's Internet website a database of district  
5-5 check register reports as required by Section 7201.104, Special  
5-6 District Local Laws Code, as added by this Act.

5-7 SECTION 11. (a) The changes in law made by this Act do not  
5-8 affect the entitlement of a member serving on the board of directors  
5-9 of the Agua Special Utility District immediately before the  
5-10 effective date of this Act to continue to serve as a member of the  
5-11 board for the remainder of the member's term.

5-12 (b) A member described by Subsection (a) of this section may  
5-13 not serve more than two consecutive terms on the board even though  
5-14 one or more of those terms began before the effective date of this  
5-15 Act.

5-16 SECTION 12. The changes in law made by this Act apply only  
5-17 to a general manager employed or whose employment contract is  
5-18 renewed or extended by the Agua Special Utility District on or after  
5-19 the effective date of this Act. A general manager employed or whose  
5-20 employment contract is renewed or extended before the effective  
5-21 date of this Act is governed by the law in effect on the date the  
5-22 general manager was employed, and the former law is continued in  
5-23 effect for that purpose.

5-24 SECTION 13. (a) The legal notice of the intention to  
5-25 introduce this Act, setting forth the general substance of this  
5-26 Act, has been published as provided by law, and the notice and a  
5-27 copy of this Act have been furnished to all persons, agencies,  
5-28 officials, or entities to which they are required to be furnished  
5-29 under Section 59, Article XVI, Texas Constitution, and Chapter 313,  
5-30 Government Code.

5-31 (b) The governor, one of the required recipients, has  
5-32 submitted the notice and Act to the Texas Commission on  
5-33 Environmental Quality.

5-34 (c) The Texas Commission on Environmental Quality has filed  
5-35 its recommendations relating to this Act with the governor, the  
5-36 lieutenant governor, and the speaker of the house of  
5-37 representatives within the required time.

5-38 (d) All requirements of the constitution and laws of this  
5-39 state and the rules and procedures of the legislature with respect  
5-40 to the notice, introduction, and passage of this Act are fulfilled  
5-41 and accomplished.

5-42 SECTION 14. (a) Section 2 of this Act takes effect  
5-43 December 31, 2019.

5-44 (b) Except as provided by Subsection (a) of this section,  
5-45 this Act takes effect September 1, 2019.

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