

1-1 By: Hinojosa S.B. No. 1188
 1-2 (In the Senate - Filed February 24, 2023; March 9, 2023,
 1-3 read first time and referred to Committee on Local Government;
 1-4 April 6, 2023, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 7, Nays 0; April 6, 2023,
 1-6 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	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 1188 By: Nichols

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to receivership of the Agua Special Utility District and
 1-22 requirements for candidates for the board of directors of the Agua
 1-23 Special Utility District.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. Section 7201.055(b), Special District Local Laws
 1-26 Code, is amended to read as follows:

1-27 (b) A candidate for a position on the board must:

1-28 (1) reside in the subdistrict represented by that
 1-29 position; ~~and~~

1-30 (2) be eligible to hold office under Section 141.001,
 1-31 Election Code;

1-32 (3) file a campaign treasurer appointment form
 1-33 described by Chapter 252, Election Code, with the Texas Ethics
 1-34 Commission; and

1-35 (4) file each report required under Title 15, Election
 1-36 Code, with the Texas Ethics Commission and the board.

1-37 SECTION 2. Section 7201.058, Special District Local Laws
 1-38 Code, is amended by amending Subsection (a) and adding Subsections
 1-39 (c), (d), and (e) to read as follows:

1-40 (a) A director shall ~~may~~ be removed from the board by a
 1-41 majority of the other directors if the director:

1-42 (1) does not have at the time of appointment the
 1-43 qualifications required by Section 7201.055(b) or is disqualified
 1-44 from serving under Section 7201.059;

1-45 (2) does not complete the education program required
 1-46 by Section 7201.054;

1-47 (3) does not meet the eligibility requirements under
 1-48 Section 7201.072;

1-49 (4) fails to comply with Section 7201.071; ~~or~~

1-50 (5) misses one-half or more of the regularly scheduled
 1-51 meetings during the preceding 12 months;

1-52 (6) repeatedly fails to file an affidavit under
 1-53 Section 553.002, Government Code, disclosing an interest in
 1-54 property to be acquired with public money;

1-55 (7) repeatedly fails to file a conflicts disclosure
 1-56 statement under Section 176.003, Local Government Code;

1-57 (8) fails to comply with Section 171.004, Local
 1-58 Government Code;

1-59 (9) does not file the financial statement required of
 1-60 state officers under Section 7201.056; or

2-1 (10) does not file a campaign treasurer appointment
2-2 form or a required report under Section 7201.055.

2-3 (c) A director shall be removed from the board by the other
2-4 directors if the director has been convicted of or has pleaded
2-5 guilty or nolo contendere to a civil or criminal offense of:

2-6 (1) bribery;
2-7 (2) embezzlement, extortion, or other theft of public
2-8 money;

2-9 (3) perjury;
2-10 (4) coercion of a public servant or voter;

2-11 (5) tampering with a governmental record;

2-12 (6) misuse of official information;

2-13 (7) abuse of official capacity; or

2-14 (8) conspiracy to commit or an attempted commission of

2-15 an offense described by Subdivisions (1)-(7).

2-16 (d) The board shall begin the process of notice and public
2-17 hearing for the removal of a director not later than the 30th day
2-18 after the date the board receives notice of a violation under this
2-19 section. On or before the 60th day after the date of the public
2-20 hearing, the remaining directors shall make a determination on
2-21 whether the violation occurred.

2-22 (e) Not later than the 30th day after the date the board
2-23 removes a director, the board shall begin the process of filling the
2-24 vacancy in accordance with Section 49.105, Water Code.

2-25 SECTION 3. Subchapter B, Chapter 7201, Special District
2-26 Local Laws Code, is amended by adding Section 7201.059 to read as
2-27 follows:

2-28 Sec. 7201.059. DISQUALIFICATION OF DIRECTORS. A director
2-29 is disqualified from serving as a director if:

2-30 (1) the director is a member or is appointed or elected
2-31 as a member of the governing body of another political subdivision;

2-32 (2) the director does not:

2-33 (A) meet the eligibility requirements under
2-34 Section 7201.072;

2-35 (B) file a campaign treasurer appointment form
2-36 required under Section 7201.055(b)(3); or

2-37 (C) file each report required under Section
2-38 7201.055(b)(4); or

2-39 (3) the board determines a relationship or employment
2-40 exists to which Section 49.052, Water Code, applies.

2-41 SECTION 4. Subchapter B-1, Chapter 7201, Special District
2-42 Local Laws Code, is amended by adding Section 7201.075 to read as
2-43 follows:

2-44 Sec. 7201.075. PUBLIC ACCESS TO DIRECTOR REPORTS. (a) The
2-45 district shall post to the district's Internet website and make
2-46 publicly available each report required to be filed with the Texas
2-47 Ethics Commission under Title 15, Election Code, by:

2-48 (1) a director;

2-49 (2) a candidate for the board; or

2-50 (3) a specific-purpose committee responsible for
2-51 supporting, opposing, or assisting a director or candidate for the
2-52 board.

2-53 (b) The district shall make available a report under
2-54 Subsection (a) not later than the fifth business day after the date
2-55 the report is filed with the board.

2-56 (c) This section may not be construed to limit public access
2-57 to information in a report described by Subsection (a) through
2-58 other electronic or print distribution.

2-59 (d) The district may remove the address of a person, except
2-60 for the city, state, and zip code, listed as having made a political
2-61 contribution to the member, candidate, or committee before posting
2-62 a report on the district's Internet website. The information must
2-63 remain available in a copy of the report maintained in the
2-64 district's office.

2-65 SECTION 5. Chapter 7201, Special District Local Laws Code,
2-66 is amended by adding Subchapter E to read as follows:

2-67 SUBCHAPTER E. RECEIVERSHIP OF DISTRICT; ENFORCEMENT

2-68 Sec. 7201.301. DEFINITIONS. In this subchapter:

2-69 (1) "Agent" means an individual who exercises

3-1 discretion in the planning, recommending, selecting, or
3-2 contracting of a vendor or contractor for the sale, lease, or
3-3 purchase of real property, goods, or services on behalf of the
3-4 district.

3-5 (2) "Commission" means the Texas Commission on
3-6 Environmental Quality.

3-7 Sec. 7201.302. APPOINTMENT OF RECEIVER. (a) At the request
3-8 of the commission, the attorney general shall bring an action for
3-9 the appointment of a receiver to collect the assets and carry on the
3-10 business of the district if the district:

3-11 (1) received three consecutive audit reports with
3-12 anything other than an unqualified or clean opinion;

3-13 (2) completed five consecutive fiscal years at a net
3-14 loss;

3-15 (3) has defaulted on more than one financial debt
3-16 obligation;

3-17 (4) has a director or agent who has been convicted of
3-18 or has pleaded guilty or nolo contendere to a civil or criminal
3-19 offense related to the management or governance of the district; or

3-20 (5) violates a final judgment issued by a district
3-21 court in an action brought by the attorney general under:

3-22 (A) this chapter;

3-23 (B) Chapter 7, 13, 49, or 65, Water Code;

3-24 (C) Chapter 341, Health and Safety Code;

3-25 (D) laws governing the selection, monitoring, or
3-26 review and evaluation of professional services, vendors, or
3-27 contractors for construction or improvement projects; or

3-28 (E) a rule adopted or order issued under any
3-29 statute listed in this subdivision.

3-30 (b) The court shall appoint a receiver if an appointment is
3-31 necessary to:

3-32 (1) guarantee the collection of assessments, fees,
3-33 penalties, or interest;

3-34 (2) guarantee continuous and adequate service to the
3-35 customers of the district; or

3-36 (3) prevent continued or repeated violations of a
3-37 court order or final commission order.

3-38 Sec. 7201.303. POWERS AND DUTIES OF RECEIVER. (a) The
3-39 receiver shall execute a bond in an amount to be set by the court to
3-40 ensure the proper performance of the receiver's duties.

3-41 (b) After appointment and execution of bond, the receiver
3-42 shall take possession of the assets of the district specified by the
3-43 court.

3-44 (c) Until discharged by the court, the receiver shall
3-45 perform the duties that the court directs to preserve the assets and
3-46 carry on the business of the district and shall strictly observe the
3-47 final order involved.

3-48 (d) The receiver has the powers and duties necessary to
3-49 ensure the continued operation of the district and the provision of
3-50 continuous and adequate services, including:

3-51 (1) meter reading;

3-52 (2) billing for services;

3-53 (3) collecting revenue;

3-54 (4) disbursing funds;

3-55 (5) accessing all system components; and

3-56 (6) requesting rate increases.

3-57 Sec. 7201.304. DISSOLUTION OF RECEIVERSHIP. The court may
3-58 dissolve the receivership and order the assets and control of the
3-59 business returned to the district if the district shows good cause
3-60 for the dissolution of the receivership.

3-61 Sec. 7201.305. EFFECT ON COMMISSION ENFORCEMENT AUTHORITY.
3-62 This section does not affect the authority of the commission to
3-63 pursue an enforcement action against the district or an affiliated
3-64 person.

3-65 SECTION 6. Not later than the 30th day after the effective
3-66 date of this Act, the board of directors of the Agua Special Utility
3-67 District shall adopt or update procedures for the removal of a
3-68 director under Section 7201.058, Special District Local Laws Code,
3-69 as amended by this Act.

4-1 SECTION 7. This Act takes effect September 1, 2023.

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