

BILL ANALYSIS

C.S.H.B. 1495
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Natural Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties note concerns raised by many members of nonprofit water supply or sewer service corporations in response to recent statutory changes to the election procedures for the board of directors of these corporations. C.S.H.B. 1495 seeks to address these issues in an effort to make the procedures more uniform with the Election Code and to provide for more efficient implementation of the recent statutory changes.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 1495 amends the Water Code to authorize the board of directors of a nonprofit water supply or sewer service corporation that provides retail water or sewer service, in an election for a director's position on the board in which a candidate who is to appear on the ballot for the position is unopposed, by resolution to declare the candidate elected to that position if the board certifies in writing that the candidate is unopposed, in which case the election for that position is not held. The bill requires a copy of the resolution to be posted at the corporation's main office, requires the text of the resolution to be read into the record of the annual meeting of the corporation's members or shareholders if the election for the unopposed candidate would have been held with that meeting, and sets out related notice requirements for the ballots used at a separate election that is held at the same time that the canceled election would have been held. The bill prohibits a person from influencing or attempting to influence by intimidation or by means of coercion a person to withdraw as a candidate or not to file an application for a place on the ballot so that an election may be canceled. The bill authorizes a board to adopt necessary rules or bylaws to implement these provisions relating to the election of an unopposed candidate, including rules or bylaws to ensure the fairness, integrity, and openness of the process.

C.S.H.B. 1495 makes provisions relating to an application for placement on a ballot in an election for a director's position on the board of a nonprofit water supply or sewer service corporation applicable only to a corporation that provides retail water or sewer service. The bill makes the requirement that such an application include a petition applicable only if the corporation has 1,500 or more members or shareholders and requires the petition to be signed by 20 members or shareholders, rather than the lesser of 20 members or shareholders or five percent of the members or shareholders. The bill requires a corporation to notify the members or shareholders of the application deadline, which is the 45th day before the date of the annual meeting, not later than the 30th day before the deadline.

C.S.H.B. 1495 makes provisions relating to a director election ballot applicable only to a corporation that provides retail water or sewer service and inapplicable to an election in relation to an unopposed candidate for a director's position for which the board has adopted a resolution declaring the candidate elected. The bill makes provisions governing election procedures and

provisions relating to an annual or special meeting of the members or shareholders of a corporation applicable only to a corporation that provides retail water or sewer service. The bill requires a corporation exempt from such provisions relating to an annual or special meeting to comply with the annual meeting and director election provisions prescribed by the Business Organizations Code for nonprofit corporations.

C.S.H.B. 1495 applies only to an annual or special meeting or a director election held on or after the 75th day after the bill's effective date.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1495 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 67.0052, Water Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) To be listed on the ballot as a candidate for a director's position, a person must file an application with the corporation that includes:

(1) the director's position sought, including any position number or other distinguishing number;

(2) if the corporation has 1,500 or more members or shareholders, a petition[;] signed by [~~the lesser of~~] 20 members or shareholders [~~or five percent of the members or shareholders,~~] requesting that the person's name be placed on the ballot as a candidate for that position;

(3) the person's written consent to serve, if elected;

(4) biographical information about the person; and

(5) a statement of the person's qualifications, including a statement that the person has the qualifications prescribed by Section 67.0051.

(d) This section applies only to a corporation that provides retail water or sewer service.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 67.0052, Water Code, is amended by amending Subsections (a) and (b) and adding Subsection (d) to read as follows:

(a) To be listed on the ballot as a candidate for a director's position, a person must file an application with the corporation that includes:

(1) the director's position sought, including any position number or other distinguishing number;

(2) if the corporation has 1,500 or more members or shareholders, a petition[;] signed by [~~the lesser of~~] 20 members or shareholders [~~or five percent of the members or shareholders,~~] requesting that the person's name be placed on the ballot as a candidate for that position;

(3) the person's written consent to serve, if elected;

(4) biographical information about the person; and

(5) a statement of the person's qualifications, including a statement that the person has the qualifications prescribed by Section 67.0051.

(b) The application must be filed with the corporation not later than the 45th day before the date of the annual meeting. The corporation shall notify the members or shareholders of the application deadline not later than the 30th day before the deadline.

(d) This section applies only to a corporation that provides retail water or sewer service.

SECTION 2. Section 67.0053, Water Code, is amended.

SECTION 2. Same as introduced version.

SECTION 3. Section 67.0054, Water Code, is amended,

SECTION 3. Same as introduced version.

SECTION 4. Subchapter A, Chapter 67, Water Code, is amended.

SECTION 4. Same as introduced version.

SECTION 5. The heading to Section 67.007, Water Code, is amended.

SECTION 5. Same as introduced version.

SECTION 6. Section 67.007, Water Code, is amended.

SECTION 6. Same as introduced version.

SECTION 7. Subchapter A, Chapter 67, Water Code, is amended.

SECTION 7. Same as introduced version.

SECTION 8. The change in law made by this Act applies only to an annual or special meeting or a director election held on or after the effective date of this Act. A meeting or an election held before the effective date of this Act is governed by the law in effect when the meeting or election was held, and that law is continued in effect for that purpose.

SECTION 8. The change in law made by this Act applies only to an annual or special meeting or a director election held on or after the 75th day after the effective date of this Act. A meeting or an election held before the 75th day after the effective date of this Act is governed by the law in effect when the meeting or election was held, and that law is continued in effect for that purpose.

SECTION 9. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.

SECTION 9. Same as introduced version.