

CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

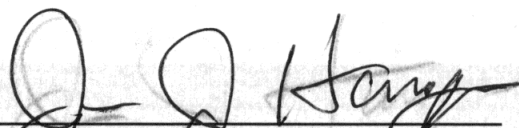
May 18, 2023
Date

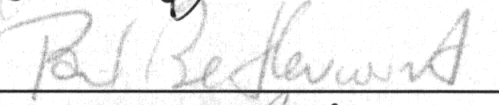
Honorable Dan Patrick
President of the Senate

Honorable Dade Phelan
Speaker of the House of Representatives

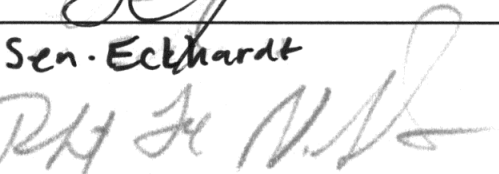
Sirs:

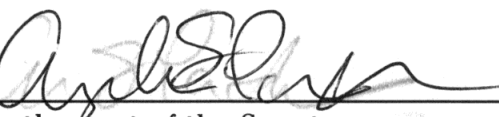
We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on SB 1188 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

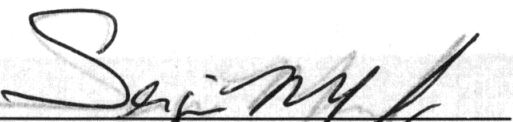

Sen. Hinojosa, Chair

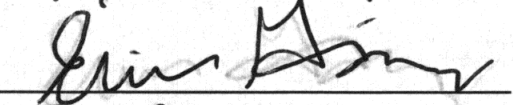

Sen. Bettencourt

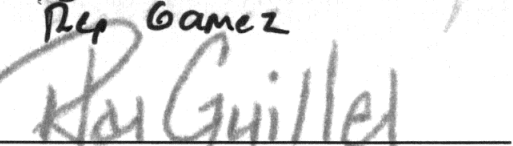

Sen. Eckhardt



Sen. Nichols

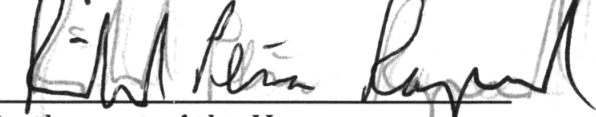

On the part of the Senate
Sen. Paxton


Rep. Muñoz, Jr., Chair


Rep. Gomez


Rep. Guillen


Rep. Lozano


On the part of the House
Rep. Raymond

Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

CONFERENCE COMMITTEE REPORT

3rd Printing

S.B. No. 1188

A BILL TO BE ENTITLED

1 AN ACT
2 relating to receivership of the Agua Special Utility District and
3 requirements for directors of the Agua Special Utility District.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

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

7 (b) A candidate for a position on the board must:

8 (1) reside in the subdistrict represented by that
9 position; ~~and~~

10 (2) be eligible to hold office under Section 141.001,
11 Election Code;

12 (3) file a campaign treasurer appointment form
13 described by Chapter 252, Election Code, with the Texas Ethics
14 Commission; and

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

17 SECTION 2. Section 7201.058, Special District Local Laws
18 Code, is amended by amending Subsection (a) and adding Subsections
19 (c), (d), and (e) to read as follows:

20 (a) A director may be removed from the board by a majority of
21 the other directors if the director:

22 (1) does not have at the time of appointment the
23 qualifications required by Section 7201.055(b) or is disqualified
24 from serving under Section 7201.059;

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

3 (3) does not meet the eligibility requirements under
4 Section 7201.072;

5 (4) fails to comply with Section 7201.071; [~~or~~]

6 (5) misses one-half or more of the regularly scheduled
7 meetings during the preceding 12 months;

8 (6) repeatedly fails to file an affidavit under
9 Section 553.002, Government Code, disclosing an interest in
10 property to be acquired with public money;

11 (7) repeatedly fails to file a conflicts disclosure
12 statement under Section 176.003, Local Government Code;

13 (8) fails to comply with Section 171.004, Local
14 Government Code;

15 (9) does not file the financial statement required of
16 state officers under Section 7201.056; or

17 (10) does not file a campaign treasurer appointment
18 form or a required report under Section 7201.055.

19 (c) A director shall be removed from the board by the other
20 remaining directors if the director has been convicted of or has
21 pleaded guilty or nolo contendere to a civil or criminal offense of:

22 (1) bribery;

23 (2) embezzlement, extortion, or other theft of public
24 money;

25 (3) perjury;

26 (4) coercion of a public servant or voter;

27 (5) tampering with a governmental record;

1 (6) misuse of official information;
2 (7) abuse of official capacity; or
3 (8) conspiracy to commit or an attempted commission of
4 an offense described by Subdivisions (1)-(7).

5 (d) The board shall begin the process of notice and public
6 hearing for the removal of a director not later than the 30th day
7 after the date the board receives notice of a violation under this
8 section. If the removal of a director is based on a violation
9 described by Subsection (a), the remaining directors shall make a
10 determination on whether the violation occurred on or before the
11 60th day after the date of the public hearing.

12 (e) Not later than the 30th day after the date the board
13 removes a director, the board shall begin the process of filling the
14 vacancy in accordance with Section 49.105, Water Code.

15 SECTION 3. Subchapter B, Chapter 7201, Special District
16 Local Laws Code, is amended by adding Sections 7201.059 and
17 7201.060 to read as follows:

18 Sec. 7201.059. DISQUALIFICATION OF DIRECTORS. A director
19 is disqualified from serving as a director if:

20 (1) the director is a member or is appointed or elected
21 as a member of the governing body of another political subdivision;

22 (2) the director does not:

23 (A) meet the eligibility requirements under
24 Section 7201.072;

25 (B) file a campaign treasurer appointment form
26 required under Section 7201.055(b)(3); or

27 (C) file each report required under Section

1 7201.055(b)(4); or

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

4 Sec. 7201.060. AUTOMATIC RESIGNATION OF DIRECTOR ON
5 CANDIDACY FOR OTHER ELECTIVE OFFICE. If a director announces the
6 director's candidacy or becomes a candidate in any general,
7 special, or primary election for any elective office other than the
8 office of director for the district, that announcement or candidacy
9 constitutes an automatic resignation of the office of the director.

10 SECTION 4. Subchapter B-1, Chapter 7201, Special District
11 Local Laws Code, is amended by adding Section 7201.075 to read as
12 follows:

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

17 (1) a director;

18 (2) a candidate for the board; or

19 (3) a specific-purpose committee responsible for
20 supporting, opposing, or assisting a director or candidate for the
21 board.

22 (b) The district shall make available a report under
23 Subsection (a) not later than the fifth business day after the date
24 the report is filed with the board.

25 (c) This section may not be construed to limit public access
26 to information in a report described by Subsection (a) through
27 other electronic or print distribution.

1 (d) The district may remove the address of a person, except
2 for the city, state, and zip code, listed as having made a political
3 contribution to the director, candidate, or committee before
4 posting a report on the district's Internet website. The
5 information must remain available in a copy of the report
6 maintained in the district's office.

7 SECTION 5. Chapter 7201, Special District Local Laws Code,
8 is amended by adding Subchapter E to read as follows:

9 SUBCHAPTER E. RECEIVERSHIP OF DISTRICT; ENFORCEMENT

10 Sec. 7201.301. DEFINITIONS. In this subchapter:

11 (1) "Agent" means an individual who exercises
12 discretion in the planning, recommending, selecting, or
13 contracting of a vendor or contractor for the sale, lease, or
14 purchase of real property, goods, or services on behalf of the
15 district.

16 (2) "Commission" means the Texas Commission on
17 Environmental Quality.

18 Sec. 7201.302. APPOINTMENT OF RECEIVER. (a) At the request
19 of the commission, the attorney general shall bring an action for
20 the appointment of a receiver to collect the assets and carry on the
21 business of the district if the district:

22 (1) received three consecutive audit reports with
23 anything other than an unqualified or clean opinion;

24 (2) completed five consecutive fiscal years at a net
25 loss;

26 (3) has defaulted on more than one financial debt
27 obligation;

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

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

6 (A) this chapter;

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

8 (C) Chapter 341, Health and Safety Code;

9 (D) laws governing the selection, monitoring, or
10 review and evaluation of professional services, vendors, or
11 contractors for construction or improvement projects; or

12 (E) a rule adopted or order issued under any
13 statute listed in this subdivision.

14 (b) The court shall appoint a receiver if an appointment is
15 necessary to:

16 (1) guarantee the collection of assessments, fees,
17 penalties, or interest;

18 (2) guarantee continuous and adequate service to the
19 customers of the district; or

20 (3) prevent continued or repeated violations of a
21 court order or final commission order.

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

25 (b) After appointment and execution of bond, the receiver
26 shall take possession of the assets of the district specified by the
27 court.

1 (c) Until discharged by the court, the receiver shall
2 perform the duties that the court directs to preserve the assets and
3 carry on the business of the district and shall strictly observe the
4 final order involved.

5 (d) The receiver has the powers and duties necessary to
6 ensure the continued operation of the district and the provision of
7 continuous and adequate services, including:

8 (1) meter reading;

9 (2) billing for services;

10 (3) collecting revenue;

11 (4) disbursing funds;

12 (5) accessing all system components; and

13 (6) requesting rate increases.

14 Sec. 7201.304. DISSOLUTION OF RECEIVERSHIP. The court may
15 dissolve the receivership and order the assets and control of the
16 business returned to the district if the district shows good cause
17 for the dissolution of the receivership.

18 Sec. 7201.305. EFFECT ON COMMISSION ENFORCEMENT AUTHORITY.
19 This subchapter does not affect the authority of the commission to
20 pursue an enforcement action against the district or an affiliated
21 person.

22 SECTION 6. Not later than the 30th day after the effective
23 date of this Act, the board of directors of the Agua Special Utility
24 District shall adopt or update procedures for the removal of a
25 director under Section 7201.058, Special District Local Laws Code,
26 as amended by this Act.

27 SECTION 7. This Act takes effect September 1, 2023.

Senate Bill 1188
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

SECTION 1. Section 7201.055(b), Special District Local Laws Code, is amended.

SECTION 2. Section 7201.058, Special District Local Laws Code, is amended. Among other provisions, Subsection (a) is amended and Subsection (d) is added to read as follows:

(a) A director *shall* [~~may~~] be removed from the board by a majority of the other directors if the director:

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

(2) does not complete the education program required by Section 7201.054;

(3) does not meet the eligibility requirements under Section 7201.072;

(4) fails to comply with Section 7201.071; [or]

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

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

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

(8) fails to comply with Section 171.004, Local Government Code;

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

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

(d) The board shall begin the process of notice and public

HOUSE VERSION (CS)

SECTION 1. Same as Senate version.

SECTION 2. Substantially the same as Senate version except as follows:

(a) A director *may* be removed from the board by a majority of the other directors if the director:

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

(2) does not complete the education program required by Section 7201.054;

(3) does not meet the eligibility requirements under Section 7201.072;

(4) fails to comply with Section 7201.071; [or]

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

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

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

(8) fails to comply with Section 171.004, Local Government Code;

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

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

(d) The board shall begin the process of notice and public

CONFERENCE

SECTION 1. Same as Senate version.

SECTION 2. Substantially the same as Senate version except as follows:

(a) Same as House version.

(d) Same as Senate version except conditions the requirement

Senate Bill 1188
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

hearing for the removal of a director not later than the 30th day after the date the board receives notice of a violation under this section. ***On or before the 60th day after the date of the public hearing, the remaining directors shall make a determination on whether the violation occurred.***

SECTION 3. Subchapter B, Chapter 7201, Special District Local Laws Code, is amended.

SECTION 4. Subchapter B-1, Chapter 7201, Special District Local Laws Code, is amended.

SECTION 5. Chapter 7201, Special District Local Laws Code, is amended. Among other provisions, Section 7201.305 is added to read as follows:

Sec. 7201.305. EFFECT ON COMMISSION ENFORCEMENT AUTHORITY. ***This section*** does not affect the authority of the commission to pursue an enforcement action against the district or an affiliated person.

SECTION 6. Transition provision.

SECTION 7. Effective date.

HOUSE VERSION (CS)

hearing for the removal of a director not later than the 30th day after the date the board receives notice of a violation under this section.

SECTION 3. Substantially the same as Senate version.

SECTION 4. Substantially the same as Senate version.

SECTION 5. Same as Senate version except as follows:

Sec. 7201.305. Same as Senate version except refers to ***this subchapter.***

SECTION 6. Same as Senate version.

SECTION 7. Same as Senate version.

CONFERENCE

for the remaining directors to make a determination on whether a violation occurred on the removal of a director being based on a violation described by Subsection (a).

SECTION 3. Substantially the same as Senate version.

SECTION 4. Substantially the same as Senate version.

SECTION 5. Same as Senate version except as follows:

Sec. 7201.305. Same as House version.

SECTION 6. Same as Senate version.

SECTION 7. Same as Senate version.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

May 19, 2023

TO: Honorable Dan Patrick, Lieutenant Governor, Senate
Honorable Dade Phelan, Speaker of the House, House of Representatives

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: SB1188 by Hinojosa (Relating to receivership of the Agua Special Utility District and requirements for directors of the Agua Special Utility District.), **Conference Committee Report**

No significant fiscal implication to the State is anticipated.

It is assumed that any costs associated with the bill could be absorbed using existing resources.

Local Government Impact

There could be an impact on the Agua Special Utility District if certain conditions are met by which the district would be placed into a receivership.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 302 Office of the Attorney General, 582 Commission on Environmental Quality

LBB Staff: JMc, CMA, KDw, NTh, AF