

## **BILL ANALYSIS**

Senate Research Center  
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S.B. 2552  
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Intergovernmental Relations  
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### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

S.B. 2552 is a local bill that relates to the board of directors and employees of the Agua Special Utility District (SUD) in the Rio Grande Valley. S.B. 2552 aims to strengthen the transparency and accountability of Agua SUD board members and personnel. The bill would require that the Agua SUD board of directors file financial statements and apply conflict of interest and nepotism laws to the directors. The bill would also provide eligibility requirements for service as a director or general manager, including the disqualification of any person or his or her relative who owns or controls more than a 10 percent interest in the fair market value of a business that receives money from the Agua SUD.

S.B. 2552 details prohibited conduct for directors and employees of the Agua SUD. Among its specifications, it provides that a director or employee may not have a personal interest in an agreement executed by the Agua SUD. The bill also provides the grounds for removal of a director from the board if a director does not complete training and education requirements, does not meet eligibility requirements for service, or participates in prohibited conduct under this bill.

Openness and transparency are essential to maintain the confidence of citizens in their government, as well as to ensure the ethical use of taxpayer funds. In an effort to be transparent and accountable to rate payers, S.B. 2552 would require the Agua SUD to prominently post on its website reports showing payments made by Agua SUD on a monthly basis. Additionally, the Agua SUD would be required to post the minutes of the previous meeting within 72 hours of adoption.

As proposed, S.B. 2552 amends current law relating to the administration of the Agua Special Utility District and creates a criminal offense.

### **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 B, Chapter 7201, Special District Local Laws Code, by adding Sections 7201.055, 7201.056, and 7201.057, as follows:

Sec. 7201.055. **FILING OF FINANCIAL STATEMENT BY DIRECTOR.** (a) Requires a member of the board of directors of Agua Special Utility District (director; board; district) to file the financial statement required of state officers under Subchapter B (Personal Financial Statement), Chapter 572, Government Code, with the Texas Ethics Commission.

(b) Provides that Subchapter B, Chapter 572, Government Code, applies to a director as if the director were a state officer and governs the contents, timeliness of filing, and public inspection of a statement filed under Subsection (a).

(c) Provides that a director commits an offense if the director fails to file the statement required by Subsection (a). Provides that an offense under this subsection is a Class B misdemeanor.

Sec. 7201.056. **SUBSTANTIAL BUSINESS INTEREST.** Provides that for purposes of Chapter 171 (Regulation of Conflicts of Interest of Officers of Municipalities, Counties, and Certain Other Local Governments), Local Government Code, a director, in connection with a vote or decision by the board, is considered to have a substantial interest in a business entity if a person related to the director within the third degree by consanguinity or affinity, as determined under Chapter 573 (Degrees of Relationship; Nepotism Prohibitions), Government Code, has a substantial interest in the business entity.

Sec. 7201.057. **GROUND FOR REMOVAL.** Authorizes a director to be removed from the board if the director:

- (1) does not have at the time of appointment the qualifications required by Sections 7201.052(b) (relating to requirements for a candidate for one of the numbered director positions) and (c) (relating to requirements for candidates for one of the director positions for a certain municipality);
- (2) does not complete the initial board training required by Section 7201.0512 (Initial Board Training);
- (3) does not complete the education program required by Section 7201.054 (Education For Directors);
- (4) does not meet the eligibility requirements under Section 7201.072; or
- (5) fails to comply with Section 7201.071.

SECTION 2. Amends Chapter 7201, Special District Local laws Code, by adding Subchapter B-1, as follows:

#### SUBCHAPTER B-1. DISTRICT ADMINISTRATION

Sec. 7201.071. **PROHIBITED CONDUCT FOR DIRECTORS AND DISTRICT EMPLOYEES.** Prohibits a director or district employee from accepting or soliciting certain gifts, other employment, compensation, or benefits, making certain personal investments, or having a personal interest in an agreement executed by the district.

Sec. 7201.072. **ELIGIBILITY OF DIRECTOR AND GENERAL MANAGER.** (a) Provides that a person is ineligible to serve as a director or general manager of the district if the person or the person's relative within the third degree by consanguinity or affinity, as determined by Chapter 573, Government Code, meets certain enumerated criteria.

(b) Requires a person applying to serve as general manager of the district to disclose any potential violations of Subsection (a) before accepting the position of general manager.

Sec. 7201.073. **GENERAL MANAGER; DUTIES.** (a) Requires the board to employ a person with prior experience and training as general manager.

(b) Provides that the duties of the general manager include certain enumerated tasks.

(c) Authorizes the board to assign the duties under Subsection (b) only to the general manager. Prohibits the board from assigning the duties to any other person.

- (d) Provides that the general manager is an employee of the district. Provides that the general manager serves at the pleasure of and reports only to the board.
- (e) Requires the board to determine the compensation and terms of employment for the general manager.
- (f) Authorizes the board to increase the compensation of the general manager in an amount not to exceed 10 percent of the amount of the general manager's compensation immediately before the effective date of the increase.
- (g) Prohibits the term of a contract, if the board enters into an employment contract with the general manager, from exceeding two years.
- (h) Provides that it is a ground for termination of the general manager if the general manager fails to disclose any potential violations of Section 7201.072 as required by that section.

SECTION 3. Amends Subchapter C, Chapter 7201, Special District Local Laws Code, by adding Section 7201.104, as follows:

Sec. 7201.104. SEARCHABLE DISTRICT EXPENDITURE DATABASE. (a) Requires the district to establish and post on the district's Internet website a database of district check register reports, including the district expenditures and contracts. Requires the database to include the amount, date, description, payor, and payee of the expenditures, and, if applicable, parties to the contract.

- (b) Requires the district to prominently display a link to the database established under this section on the district's Internet website. Requires the information provided in the district check register reports to be updated monthly.
- (c) Requires the district to keep in the database information required by this section related to an adopted budget until the third anniversary of the date the budget was adopted.

SECTION 4. Amends Section 7201.201, Special District Local Laws Code, by adding Subsection (c) to require the district, not later than the third day after the date the accountant finalizes the audit required by this section (Audit of District), to publish the audit on the district's Internet website.

SECTION 5. Amends Section 7201.204, Special District Local Laws Code, as follows:

Sec. 7201.204. NEWSLETTER, WEBSITE, AND ANNUAL FINANCIAL INFORMATION. (a) Creates this subsection from existing text and requires the district to maintain and update monthly an Internet website with current information concerning policies, monthly financial information concerning revenues and expenses, and monthly summaries, rather than requiring the district to maintain an Internet website with current information concerning agendas, minutes, policies, monthly financial information concerning revenues and expenses, and quarterly summaries.

- (b) Requires the district, not later than 72 hours before a meeting held by the district, to publish on the district's Internet website the agenda for the meeting.
- (c) Requires the district, not later than 72 hours after the date the district adopts the minutes of a meeting held by the district, to publish on the district's Internet website the minutes adopted by the district.
- (d) Creates this subsection from existing text and makes no further changes.

SECTION 6. Requires that, not later than January 1, 2020:

(1) a director file a financial statement as required by Section 7201.055, Special District Local Laws Code, as added by this Act; and

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

SECTION 7. Provides that the changes in law do not affect the entitlement of a director immediately before the effective date of this Act to continue to serve as a member of the board for the remainder of the member's term.

SECTION 8. Makes application of this Act in regard to a general manager prospective.

SECTION 9. Provides that all requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

SECTION 10. Effective date: September 1, 2019.