AN ACT
relating to election procedures and qualifications of members of
boards of directors for water supply or sewer service corporations.
BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
SECTION 1. Subchapter A, Chapter 67, Water Code, is amended
by adding Sections 67.0051, 67.0052, 67.0053, and 67.0054 to read
as follows:
Sec. 67.0051. QUALIFICATIONS FOR ELECTION OR APPOINTMENT AS
DIRECTOR. (a) To be qualified for election or appointment as a
director, a person must be:
(1) 18 years of age or older on the first day of the
term to be filled at the election or on the date of appointment, as
applicable; and
(2) a member or shareholder of the corporation.
(b) In addition to the qualifications prescribed by
Subsection (a), a person is not qualified to serve as a director if
the person:
(1) has been determined by a final judgment of a court
exercising probate jurisdiction to be:
(A) totally mentally incapacitated; or
(B) partially mentally incapacitated without the
right to vote; or
(2) has been finally convicted of a felony from which
the person has not been pardoned or otherwise released from the
resulting disabilities.

(c) If the board determines that a person serving as a director does not have the qualifications prescribed by Subsections (a) and (b), the board shall, not later than the 60th day after the date the board makes that determination, remove the director and fill the vacancy by appointing a person who has the qualifications prescribed by those subsections.

Sec. 67.0052. BALLOT APPLICATION. (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) 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.

(c) The corporation shall make available director candidate application forms at the corporation's main office and shall provide application forms by mail or electronically on request.

Sec. 67.0053. BALLOT. (a) Not later than the 30th day
before the date of an annual meeting, the corporation shall mail to
each member or shareholder of record:

(1) written notice of the meeting;
(2) the election ballot; and
(3) a statement of each candidate's qualifications,
including biographical information as provided in each candidate's
application.

(b) The election ballot must include:

(1) the number of directors to be elected; and
(2) the names of the candidates for each position.

Sec. 67.0054. ELECTION PROCEDURES. (a) A member or
shareholder may vote:

(1) in person at the annual meeting;
(2) by mailing a completed ballot to the office of the
independent election auditor selected under Section 67.007(d) or to
the corporation's main office, which ballot must be received by the
corporation not later than noon on the business day before the date
of the annual meeting; or
(3) by delivering a completed ballot to the office of
the independent election auditor or to the corporation's main
office not later than noon on the business day before the date of
the annual meeting.

(b) The independent election auditor shall receive and
count the ballots before the annual meeting is adjourned.

(c) For each director's position, the candidate who
receives the highest number of votes is elected.

(d) If two or more candidates for the same position tie for
the highest number of votes for that position, those candidates shall draw lots to determine who is elected.

(e) The independent election auditor shall provide the board with a written report of the election results.

(f) The board may adopt necessary rules or bylaws to implement this section, including rules or bylaws to ensure the fairness, integrity, and openness of the voting process.

SECTION 2. Section 67.007, Water Code, is amended by adding Subsections (a-l) and (d) and amending Subsections (b) and (c) to read as follows:

(a-l) A quorum for the transaction of business at a meeting of the members or shareholders is a majority of the members and shareholders present. In determining whether a quorum is present, all members and shareholders who mailed or delivered ballots to the independent election auditor or the corporation on a matter submitted to a vote at the meeting are counted as present.

(b) The board shall adopt written procedures for conducting an annual or special meeting of the members or shareholders in accordance with this section and Sections 67.0052, 67.0053, and 67.0054. The procedures, which shall include the following:

(1) notification to eligible members or shareholders of the proposed agenda, location, and date of the meeting;

(2) director establishment of a quorum consisting of proxies and the votes of members or shareholders present;

[4] nomination and election procedures, including candidate application procedures;

(3) [4] approval of the [proxy and] ballot form to
be used; and

(4) [45+] validation of eligible voters, [proxies,]
ballots, and election results.

(c) The board shall adopt an official [proxy and] ballot
form to be used in conducting the business of the corporation at any
annual or special meeting. No other [proxy or] ballot form will be
valid. Ballots [proxies and ballots] from members or shareholders
are confidential and are exempted from disclosure by the
corporation until after the date of the relevant election.

(d) The board shall select an independent election auditor
not later than the 30th day before the scheduled date of the annual
meeting. The independent election auditor is not required to be an
experienced election judge or auditor and may serve as an unpaid
volunteer. At the time of selection and while serving in the
capacity of an independent election auditor, the independent
election auditor may not be associated with the corporation as:

(1) an employee;
(2) a director or candidate for director; or
(3) an independent contractor engaged by the
corporation as part of the corporation's regular course of
business.

SECTION 3. The changes in law made by this Act in the
qualifications of directors of a water supply or sewer service
corporation do not affect the entitlement of a director serving on
the board of directors immediately before the effective date of
this Act to continue to carry out the board's functions for the
remainder of the director's term. The changes in law apply only to
S.B. No. 333

1 a director elected or appointed on or after the effective date of
2 this Act. This Act does not prohibit a person who is a member of the
3 board of directors on the effective date of this Act from being
4 reelected or reappointed to the board of directors if the person has
5 the qualifications required for a director under Section 67.0051,
6 Water Code, as added by this Act.

SECTION 4. This Act takes effect September 1, 2011.
S.B. No. 333

David L. Williams
President of the Senate

I hereby certify that S.B. No. 333 passed the Senate on March 24, 2011, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendment on April 19, 2011, by the following vote: Yeas 31, Nays 0.

Joe Straus
Speaker of the House

I hereby certify that S.B. No. 333 passed the House, with amendment, on April 13, 2011, by the following vote: Yeas 146, Nays 0, one present not voting.

Robert Hague
Chief Clerk of the House

Approved:

29 APR '11

Date

Rick Perry
Governor

FILED IN THE OFFICE OF THE SECRETARY OF STATE APR 29 2011

Secretary of State