

SUBJECT: Prohibiting reappointment of MUD board members who resign their seats

COMMITTEE: Natural Resources — favorable, without amendment

VOTE: 7 ayes — Puente, Callegari, Campbell, Geren, Hardcastle, Hilderbran, Hope

0 nays

2 absent — Bonnen, Laney

WITNESSES: For — Julie Bassett; Janey Miller

Against — None

BACKGROUND: Water Code, ch. 54, subch. C governs the administrative procedures for boards of directors of municipal utility districts (MUDs) in Texas. It stipulates that a MUD must be governed by a board of five directors and that, in order to qualify, a director must be at least 18 years old, be a resident of the state, and either own taxable land in the district or be a qualified voter in the district.

DIGEST: HB 1041 would prohibit a MUD board from appointing a person to fill a vacancy if that person had resigned from the board:

- in the two years preceding the vacancy date; or
- on or after the vacancy date but before the vacancy had been filled.

The bill also would prohibit a MUD board from appointing a person who had been defeated in a director election held by the district in the two years preceding the vacancy date.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2005.

**SUPPORTERS
SAY:**

HB 1041 would prohibit the anti-democratic practice of “seat-jumping,” a tactic by which a MUD board can protect a board member who expects to lose a public election. Under this practice, a current board member resigns his or her seat, only to be reappointed to a vacant seat with a longer remaining term, thereby avoiding the need to stand for reelection. Without legislation to prevent it, a MUD board member could engage in the practice over and over, serving on a board for years without ever having to face constituents on election day.

Thousands of Texans reside within MUDs, which provide essential services such as water and wastewater service. MUDs have many significant government powers, including the authority to tax, issue bonds, and set rates for services. It is vital that board members overseeing these powers are accountable to their constituents, and seat-jumping undermines this accountability.

Also, it is important for the state to prevent MUD directors that recently had been rejected at the polls from being appointed to newly vacant seats. This prohibition would ensure that the will of voters in MUD elections was respected.

MUDs can be small and isolated, allowing their board members to escape the public scrutiny that generally is placed on other elected officials, such as city council members or county commissioners. Practices such as those banned in this bill rightly would cause an outcry if they happened in a major city, but without legislation preventing these abuses, MUD inhabitants might have no recourse against these unfair practices.

**OPPONENTS
SAY:**

While seat-jumping is a condemnable practice, HB 1041 could have unintended consequences and prove detrimental in many communities served by MUDs. Under this bill, if a MUD board member had to resign due to immediate personal reasons, such as family health concerns, that member could not be reappointed when he or she was ready to serve again.

Further, many MUDs represent small communities where it can be difficult to find five citizens to serve on a board, and so the state should avoid putting too many restrictions on these entities. In order to address a similar problem in the courts, Texas allows defeated judges to assist elected judges with heavy dockets through the visiting judges program. Shortages of willing MUD candidates could be an issue in some districts,

and defeated MUD officials should be allowed to serve if no one else is willing to stand for election.

OTHER
OPPONENTS
SAY:

A more effective way to address the issue of seat jumping would be to prescribe that MUDs be governed by directors representing single-member districts. Moving from one seat to another in order to extend one's term is only a problem in MUDs with at-large districts, because eligibility for an office in a single-member district is determined by a candidate's residential address.

NOTES:

The companion bill, SB 693 by Ogden, passed in the Senate on the Local and Uncontested Calendar on April 7 and was reported favorably, without amendment, by the House Natural Resources Committee on April 25, making it eligible to be considered in lieu of HB 1041.