

WATER CODE

TITLE 4. GENERAL LAW DISTRICTS

CHAPTER 49. PROVISIONS APPLICABLE TO ALL DISTRICTS

SUBCHAPTER C. ADMINISTRATIVE PROVISIONS

Sec. 49.052. DISQUALIFICATION OF DIRECTORS. (a) A person is disqualified from serving as a member of a board of a district that includes less than all the territory in at least one county and which, if located within the corporate area of a city or cities, includes within its boundaries less than 75 percent of the incorporated area of the city or cities, if that person:

(1) is related within the third degree of affinity or consanguinity to a developer of property in the district, any other member of the board, or the manager, engineer, attorney, or other person providing professional services to the district;

(2) is an employee of any developer of property in the district or any director, manager, engineer, attorney, or other person providing professional services to the district or a developer of property in the district in connection with the district or property located in the district;

(3) is a developer of property in the district;

(4) is serving as an attorney, consultant, engineer, manager, architect, or in some other professional capacity for the district or a developer of property in the district in connection with the district or property located in the district;

(5)(A) is a party to a contract with or along with the district except for the purchase of public services furnished by the district to the public generally; or

(B) is a party to a contract with or along with a developer of property in the district relating to the district or to property within the district, other than a contract limited solely to the purpose of purchasing or conveying real property in the district for the purpose of either establishing a permanent residence, establishing a commercial business within the district, or qualifying as a director; or

(6) during the term of office, fails to maintain the qualifications required by law to serve as a director.

(b) Within 60 days after the board determines a relationship or employment exists which constitutes a disqualification under Subsection (a), it shall replace the person serving as a member of the board with a person who would not be disqualified.

(c) Any person who willfully occupies an office as a member of a board and exercises the powers and duties of that office when disqualified under the provisions of Subsection (a) is guilty of a misdemeanor and, on conviction, shall be fined not less than \$100 nor more than \$1,000.

(d) As used in this section, "developer of property in the district" means any person who owns land located within a district covered under this section and who has divided or proposes to divide the land into two or more parts for the purpose of laying out any subdivision or any tract of land or any addition to any town or city, or for laying out suburban lots or building lots, or any lots, streets, alleys, or parks or other portions intended for public use, or the use of purchasers or owners of lots fronting thereon or adjacent thereto.

(e) Any rights obtained by any third party through official action of a board covered by this section are not impaired or affected by the disqualification under this section of any member of the board to serve, provided that the third party had no knowledge at the time the rights were obtained of

the fact that the member of the board was disqualified to serve.

(f) This section shall not apply to special water authorities, districts described in Section 49.181(h)(1)(D), or a district where the principal function of the district is to provide irrigation water to agricultural lands or to provide nonpotable water for any purpose.

(g) A board by unanimous vote of its remaining members may remove a board member only if that board member has missed one-half or more of the regular meetings scheduled during the prior 12 months. Any board member so removed may file a written appeal with the commission within 30 days after receiving written notice of the board action. The commission may reinstate a removed director if the commission finds that the removal was unwarranted under the circumstances, including the reasons for absences, the time and place of the meetings missed, the business conducted at the meetings missed, and any other facts or circumstances the commission may deem relevant.

(h) This subsection applies only to a district that is located wholly within the boundaries of a municipality with a population of more than 1.5 million, that is governed by Chapter 375, Local Government Code, and that is governed by an appointed board consisting of nine or more members. Notwithstanding Subsection (f) or (g), a person is considered to have resigned from serving as a member of the board if the person fails to attend three consecutive meetings of the board. The remaining board members by majority vote may waive the resignation under this subsection if fairness requires that the absences be excused on the basis of illness or other good cause.

(i) Notwithstanding any other law, a director is eligible to serve on the board of a district governed by Chapter 375, Local Government Code, regardless of the municipality in which the director resides, if:

(1) the district is located within the boundaries of a municipality with a population of more than 1.8 million; and

(2) all or a part of the district is located more than five miles from the downtown city hall of that municipality.

Added by Acts 1995, 74th Leg., ch. 715, Sec. 2, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 248, Sec. 6, eff. June 18, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 156 (H.B. 1901), Sec. 2, eff. May 28, 2011.