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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

March 27, 2015

The Honorable Joe Straus
Texas House of Representatives
Capitol Station
PO Box 2910
Austin, Texas 78768-2910

Re: Responsibility of the Texas Commission on Environmental Quality (TCEQ) Pursuant to Article XVI, Section 59(d), Texas Constitution

House Bill (HB) 2343, as Filed by Representative Harold V. Dutton, Jr. - Relating to the Generation Park Management District

Dear Speaker Straus:

The following comments are provided pursuant to the Constitutional requirements referenced above. Under those requirements, the TCEQ must submit, to the Governor, Lieutenant Governor and Speaker of the House of Representatives, the TCEQ's recommendations on specific legislation affecting water districts. We recommend that these comments be considered in the evaluation of the proposed legislation.

The bill amends Chapter 3916 of the Special District Local Laws Code related to Generation Park Management District (the "District") as detailed below.

Specifies that the District is a governmental unit under Chapter 101, Civil Practice and Remedies Code, and the operation of the District are not proprietary functions for any purpose, including the application of Chapter 101, Civil Practice and Remedies Code; however, it does not waive any governmental or sovereign immunity from suit, liability, or judgment that would otherwise apply to the district.

Adds transit facilities, parking facilities, conduit facilities, rail facilities, and public art to the list of public facilities the District may provide. Additionally, the bill specifies that the District will not act as the agent or instrumentality of any private interest even though the District will benefit many private interests as well as the public.

Specifies that the District may be included in one or more of the following: tax increment reinvestment zone, tax abatement zone, enterprise zone, foreign trade zone, and/or industrial district.

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Specifies that Chapter 3916 prevails over any conflicting provision within Chapter 49, Water Code (currently only Chapter 375, Local Government Code is included).

Specifies that Water Code Section 49.052, relating to disqualifications of board members, applies to the District.

Further defines the governing authority over which the District develops and/or finances a road facility by adding Section 59, Article XVI, Texas Constitution to the applicable governing statutes.

Specifies that the District may own, operate, and maintain a road facility. Currently, the District is to convey a road facility to the state, a county, or a municipality for operation and maintenance.

Specifies that Water Code Section 49.216, relating to enforcement by peace officers, applies to the District.

Specifies that the District may use the contract delivery provisions within Subchapter I, Water Code, or Chapter 2269, Government Code (including the design-build method).

Specifies that Subchapter L, Water Code, relating to the establishment of fire departments, applies to the District; however, the bill allows the District to remove all or part of the District's territory from a district providing firefighting or emergency medical services, upon entering an agreement to remove said territory.

Specifies that the District may adopt and enforce rules.

Specifies that on dissolution of the District, the board shall determine whether the District's assets will escheat to the state or are transferred to a political subdivision of the state.

Sincerely,



Linda Brookins, Director
Water Supply Division
Texas Commission on Environmental Quality

cc: Honorable Doug Miller, Chairman, House Committee on Special Purpose Districts
Representative Harold V. Dutton, Jr., Texas House of Representatives

LETTER OF TRANSMITTAL
HOUSE OF REPRESENTATIVES
STATE OF TEXAS

HB 2343

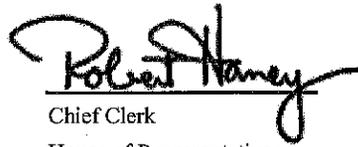
Bill Number

TO: The Honorable Governor of Texas
SUBJECT: A Bill Relating to a Conservation and Reclamation District

This is to transmit to you and the Texas Commission on Environmental Quality copies of a bill relating to a conservation and reclamation district and copies of the notice of intention to introduce the bill. One copy is for your files and one for you to forward to the Texas Commission on Environmental Quality, under Section 59(d), Article XVI, Constitution of the State of Texas.

3/12/2015

Date transmitted to
Governor's Office


Chief Clerk
House of Representatives

TO: Texas Commission on Environmental Quality
SUBJECT: A Bill Relating to a Conservation and Reclamation District

This is to forward to you a copy of a bill relating to conservation and reclamation district and a copy of the notice of intention to introduce the bill.

March 16, 2015

Date transmitted to
Texas Commission on Environmental Quality


Governor

TO: The Honorable Speaker of the House
The Honorable President of the Senate
The Honorable Governor of Texas
SUBJECT: A Bill Relating to a Conservation and Reclamation District

Attached are recommendations of the Texas Commission on Environmental Quality in compliance with Section 59(d), Article XVI, Constitution of the State of Texas.


Texas Commission on Environmental Quality



84R HB 02343

By: Dutton

H.B. No. 2343

A BILL TO BE ENTITLED

AN ACT

1

2 relating to the Generation Park Management District.

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

4 SECTION 1. Section 3916.002, Special District Local Laws
5 Code, is amended to read as follows:

6 Sec. 3916.002. CREATION AND NATURE OF DISTRICT; IMMUNITY.

7 (a) The Generation Park Management District is a special district
8 created under Section 59, Article XVI, Texas Constitution.

9 (b) The district is a governmental unit under Chapter 101,
10 Civil Practice and Remedies Code, and the operations of the
11 district are essential government functions and are not proprietary
12 functions for any purpose, including the application of Chapter
13 101, Civil Practice and Remedies Code.

14 (c) This chapter does not waive any governmental or
15 sovereign immunity from suit, liability, or judgment that would
16 otherwise apply to the district.

17 SECTION 2. Section 3916.006, Special District Local Laws
18 Code, is amended by amending Subsection (d) and adding Subsection
19 (f) to read as follows:

20 (d) The district will:

21 (1) promote the health, safety, and general welfare of
22 residents, employers, potential employees, employees, visitors,
23 and consumers in the district, and of the public;

24 (2) provide needed funding for the district to

1 preserve, maintain, and enhance the economic health and vitality of
2 the district territory as a community and business center;

3 (3) promote the health, safety, welfare, and enjoyment
4 of the public by providing pedestrian ways, road facilities,
5 transit facilities, parking facilities, conduit facilities, rail
6 facilities and other enhanced infrastructure, [~~and~~] recreational
7 facilities, and public art and by landscaping and developing
8 certain areas, which are necessary for the restoration,
9 preservation, and enhancement of scenic and aesthetic beauty; and

10 (4) provide for water, wastewater, and drainage[~~r~~
11 ~~oad, rail, and recreational~~] facilities for the district.

12 (f) The district will not act as the agent or
13 instrumentality of any private interest even though the district
14 will benefit many private interests as well as the public.

15 SECTION 3. Section 3916.008, Special District Local Laws
16 Code, is amended to read as follows:

17 Sec. 3916.008. ELIGIBILITY FOR INCLUSION IN SPECIAL
18 ZONES. All or any part of the area of the district is eligible to
19 be included in one or more of the following:

20 (1) a tax increment reinvestment zone created under
21 Chapter 311, Tax Code;

22 (2) a tax abatement reinvestment zone created under
23 Chapter 312, Tax Code;

24 (3) an enterprise zone created under Chapter 2303,
25 Government Code;

26 (4) a foreign trade zone created under Chapter 681,
27 Business & Commerce Code; or

1 (5) an industrial district created under Chapter 42,
2 Local Government Code.

3 SECTION 4. Section 3916.011, Special District Local Laws
4 Code, is amended to read as follows:

5 Sec. 3916.011. CONFLICTS OF LAW. This chapter prevails
6 over any provision of general law, including a provision of Chapter
7 375, Local Government Code, or Chapter 49, Water Code, that is in
8 conflict or inconsistent with this chapter.

9 SECTION 5. Subchapter B, Chapter 3916, Special District
10 Local Laws Code, is amended by adding Section 3916.054 to read as
11 follows:

12 Sec. 3916.054. DISQUALIFICATION OF DIRECTORS. Section
13 49.052, Water Code, applies to the district.

14 SECTION 6. Section 3916.103, Special District Local Laws
15 Code, is amended to read as follows:

16 Sec. 3916.103. RECREATIONAL FACILITIES. The district may
17 develop or finance recreational facilities as authorized by Chapter
18 375, Local Government Code, Sections 52 and 52-a, Article III,
19 Texas Constitution, Section 59, Article XVI, Texas Constitution,
20 and any other law that applies to the district.

21 SECTION 7. Section 3916.104, Special District Local Laws
22 Code, is amended to read as follows:

23 Sec. 3916.104. AUTHORITY FOR ROAD PROJECTS. Under Section
24 52, Article III, Texas Constitution, the district may own, operate,
25 maintain, design, acquire, construct, finance, issue bonds, notes,
26 or other obligations for, and improve [~~and convey to this state, a~~
27 ~~county, or a municipality for operation and maintenance]~~

1 macadamized, graveled, or paved roads or improvements, including
2 storm drainage and other improvements located in or adjacent to
3 road rights-of-way, in aid of those roads.

4 SECTION 8. Sections 3916.105(a) and (b), Special District
5 Local Laws Code, are amended to read as follows:

6 (a) The district may [~~shall~~] convey a road project
7 authorized by Section 3916.104 to:

8 (1) the municipality or county that will operate and
9 maintain the road if the municipality or county has approved the
10 plans and specifications of the road project; or

11 (2) the state if the state will operate and maintain
12 the road and the Texas Transportation Commission has approved the
13 plans and specifications of the road project.

14 (b) Except as provided by Subsection (c), the district shall
15 operate and maintain a road project authorized by Section 3916.104
16 that the district implements and does [~~is~~] not convey to [~~approved~~
17 ~~by~~] a municipality, a county, or this state under Subsection (a).

18 SECTION 9. Section 3916.110, Special District Local Laws
19 Code, is amended to read as follows:

20 Sec. 3916.110. LAW ENFORCEMENT SERVICES. Section 49.216,
21 Water Code, applies to the district [~~To protect the public~~
22 ~~interest, the district may contract with a qualified party,~~
23 ~~including the county or the city, to provide law enforcement~~
24 ~~services in the district for a separate fee or as otherwise provided~~
25 ~~by the contract].~~

26 SECTION 10. Section 3916.116(a), Special District Local
27 Laws Code, is amended to read as follows:

1 (a) Subchapter I, Chapter 49, Water Code, applies to a
2 district contract for construction work, equipment, materials, or
3 machinery. Notwithstanding Sections 2269.003(a) and 2269.352,
4 Government Code, the [The] district may use any [a] project
5 delivery method described by Subchapter I, Chapter 49, Water Code,
6 or Chapter 2269 [2267], Government Code, including a delivery
7 method described by Subchapter H, Chapter 2269, Government Code.

8 SECTION 11. Subchapter C, Chapter 3916, Special District
9 Local Laws Code, is amended by adding Section 3916.119 to read as
10 follows:

11 Sec. 3916.119. FIREFIGHTING AND EMERGENCY MEDICAL
12 SERVICES. (a) Subchapter L, Chapter 49, Water Code, applies to the
13 district.

14 (b) The district may remove all or part of the district's
15 territory from a district providing firefighting or emergency
16 medical services in the same manner a municipality annexing
17 territory in such a district may remove that territory. The
18 district may remove that territory regardless of whether the
19 territory was originally included in such a district or was
20 subsequently annexed.

21 (c) On the removal of territory under Subsection (b), each
22 district from which territory was removed shall change its records
23 to show that the territory has been disannexed and shall cease to
24 provide further services to the residents of that territory.

25 (d) The district's right to remove territory under
26 Subsection (b) is conditioned on the execution of an agreement for
27 the removal of the territory entered into under Chapter 791,

1 Government Code, or other applicable law, between the district and
2 each district from which the territory will be removed. The
3 agreement may include terms for the payment of funds from the
4 district's current revenues for the continued provision of
5 firefighting or emergency medical services to the district or such
6 other lawful terms that the parties consider appropriate.

7 (e) The disannexation of territory under this section does
8 not diminish or impair the rights of the holders of any outstanding
9 and unpaid bonds, warrants, or other obligations, including loans
10 and lease-purchase agreements, of the district from which the
11 territory was removed.

12 SECTION 12. Section 3916.153, Special District Local Laws
13 Code, is amended to read as follows:

14 Sec. 3916.153. RULES. (a) The district has the general
15 power and duty to adopt and enforce rules as provided by Section
16 375.096(c), Local Government Code.

17 (b) The district may adopt and enforce rules covering its
18 public transit system or its public parking facilities, except that
19 a rule relating to or affecting the use of the public right-of-way
20 or a requirement for off-street parking is subject to
21 all applicable county requirements.

22 SECTION 13. Section 3916.351, Special District Local Laws
23 Code, is amended to read as follows:

24 Sec. 3916.351. DISSOLUTION OF DISTRICT [~~WITH OUTSTANDING~~
25 ~~DEBT~~]. Notwithstanding Section 375.263(b), Local Government Code,
26 on dissolution of the district, the board shall determine whether
27 the district's assets will escheat to the state or are transferred

1 to a political subdivision of the state. [~~(a) The board may dissolve~~
2 ~~the district regardless of whether the district has debt. Section~~
3 ~~375.264, Local Government Code, does not apply to the district.~~

4 [~~(b) If the district has debt when it is dissolved, the~~
5 ~~district shall remain in existence solely for the purpose of~~
6 ~~discharging its debts. The dissolution is effective when all debts~~
7 ~~have been discharged.]~~

8 SECTION 14. The change in law made by Section 3916.054,
9 Special District Local Laws Code, as added by this Act, does not
10 affect the entitlement of a member serving on the board of directors
11 of the Generation Park Management District immediately before the
12 effective date of this Act to continue to carry out the board's
13 functions for the remainder of the member's term. The change in law
14 applies only to a member elected on or after the effective date of
15 this Act.

16 SECTION 15. (a) The legal notice of the intention to
17 introduce this Act, setting forth the general substance of this
18 Act, has been published as provided by law, and the notice and a
19 copy of this Act have been furnished to all persons, agencies,
20 officials, or entities to which they are required to be furnished
21 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
22 Government Code.

23 (b) The governor, one of the required recipients, has
24 submitted the notice and Act to the Texas Commission on
25 Environmental Quality.

26 (c) The Texas Commission on Environmental Quality has filed
27 its recommendations relating to this Act with the governor, the

1 lieutenant governor, and the speaker of the house of
2 representatives within the required time.

3 (d) All requirements of the constitution and laws of this
4 state and the rules and procedures of the legislature with respect
5 to the notice, introduction, and passage of this Act are fulfilled
6 and accomplished.

7 SECTION 16. This Act takes effect immediately if it
8 receives a vote of two-thirds of all the members elected to each
9 house, as provided by Section 39, Article III, Texas Constitution.
10 If this Act does not receive the vote necessary for immediate
11 effect, this Act takes effect September 1, 2015.