

Bryan W. Shaw, Ph.D., P.E., *Chairman*
Toby Baker, *Commissioner*
Zak Covar, *Commissioner*
Richard A. Hyde, P.E., *Executive Director*



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) 3220, as Filed by Representative Armando Martinez - Relating to the powers and duties of the Hidalgo County Water Control and Improvement District No. 18; providing authority to issue bonds; providing authority to impose fees and taxes; providing authority to participate in water planning and conservation projects related to the district within and outside district boundaries; and providing other powers related to roads, water, sewer, recycled water, and related utilities

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 codifies Hidalgo County Water Control and Improvement District No. 18 (the "District") as Chapter 9045, Special District Local Laws Code, with the powers of a water control and improvement district operating under Chapters 49 and 51, Water Code.

The bill specifies that the District has the powers and duties under Chapters 49 and 51, Water Code including but are not limited to the power construct, participate in, own, maintain, and provide services related to water conservation projects, lakes, reservoirs, canals, wells, roads, water, sewer, recycled water, and related utility facilities.

The bill grants the District road powers.

The bill allows the District to divide only if the District has no outstanding bonded debt and is not imposing ad valorem taxes.

The Honorable Joe Straus
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The bill validates and confirms: all governmental acts and proceedings of the District that were taken before the effective date of the bill. The validation does not apply to any matter that on the effective date of the bill: (1) is involved in litigation if the litigation ultimately results in the matter being held invalid by a final court judgment; or (2) has been held invalid by a final court judgment.

Sincerely,

A handwritten signature in cursive script, appearing to read "Linda Brookins".

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

cc: Honorable Doug Miller, Chairman, House Committee on Special Purpose Districts
Representative Armando Martinez, Texas House of Representatives

LETTER OF TRANSMITTAL
HOUSE OF REPRESENTATIVES
STATE OF TEXAS

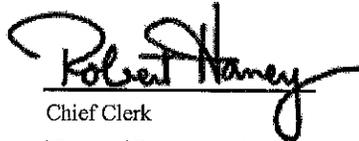
HB 3220
Bill Number

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.

3/13/2015

Date transmitted to
Governor's Office

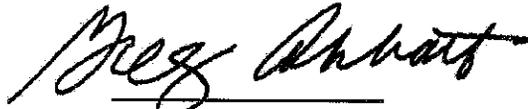

Chief Clerk
House of Representatives

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



By: Martinez

H.B. No. 3220

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the powers and duties of the Hidalgo County Water
3 Control and Improvement District No. 18; providing authority to
4 issue bonds; providing authority to impose fees and taxes;
5 providing authority to participate in water planning and
6 conservation projects related to the district within and outside
7 district boundaries; and providing other powers related to roads,
8 water, sewer, recycled water, and related utilities.

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

10 SECTION 1. Subtitle I, Title 6, Special District Local Laws
11 Code, is amended by adding Chapter 9045 to read as follows:

12 CHAPTER 9045. HIDALGO COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT
13 NO. 18

14 SUBCHAPTER A. GENERAL PROVISIONS

15 Sec. 9045.001. DEFINITION. In this chapter, "district"
16 means the Hidalgo County Water Control and Improvement District
17 No. 18.

18 Sec. 9045.002. NATURE AND PURPOSES OF DISTRICT. (a) The
19 district is a water control and improvement district created under
20 Section 59, Article XVI, Texas Constitution.

21 (b) The district is created to accomplish the purposes of:

22 (1) a water control and improvement district as
23 provided by general law and Section 59, Article XVI, Texas
24 Constitution; and

1 (2) Section 52, Article III, Texas Constitution, that
2 relate to the construction, acquisition, improvement, operation,
3 or maintenance of macadamized, graveled, or paved roads, or
4 improvements, including storm drainage, in aid of those roads.

5 SUBCHAPTER B. POWERS AND DUTIES

6 Sec. 9045.051. GENERAL POWERS AND DUTIES. The district has
7 the powers and duties necessary to accomplish the purposes for
8 which the district is created.

9 Sec. 9045.052. WATER CONTROL AND IMPROVEMENT DISTRICT
10 POWERS AND DUTIES. The district has the powers and duties provided
11 by the general law of this state, including Chapters 49 and 51,
12 Water Code, applicable to water control and improvement districts
13 created under Section 59, Article XVI, Texas Constitution,
14 including but not limited to the power construct, participate in,
15 own, maintain, and provide services related to water conservation
16 projects, lakes, reservoirs, canals, wells, roads, water, sewer,
17 recycled water, and related utility facilities.

18 Sec. 9045.053. AUTHORITY FOR ROAD PROJECTS. Under Section
19 52, Article III, Texas Constitution, the district may design,
20 acquire, construct, finance, issue bonds for, improve, operate,
21 maintain, and convey to this state, a county, or a municipality for
22 operation and maintenance macadamized, graveled, or paved roads, or
23 improvements, including storm drainage (i.e. lakes, reservoirs,
24 canals, underground drainage, water treatment systems, etc.) in aid
25 of those roads.

26 Sec. 9045.054. ROAD STANDARDS AND REQUIREMENTS. (a) A road
27 project must meet all applicable construction standards, zoning and

1 subdivision requirements, and regulations of each municipality in
2 whose corporate limits or extraterritorial jurisdiction the road
3 project is located.

4 (b) If a road project is not located in the corporate limits
5 or extraterritorial jurisdiction of a municipality, the road
6 project must meet all applicable construction standards,
7 subdivision requirements, and regulations of each county in which
8 the road project is located.

9 (c) If the state will maintain and operate the road, the
10 Texas Transportation Commission must approve the plans and
11 specifications of the road project.

12 Sec. 9045.055. DIVISION OF DISTRICT. (a) The district may
13 be divided into two or more new districts only if the district:

14 (1) has no outstanding bonded debt; and

15 (2) is not imposing ad valorem taxes.

16 (b) This chapter applies to any new district created by the
17 division of the district, and a new district has all the powers and
18 duties of the district.

19 (c) Any new district created by the division of the district
20 may not, at the time the new district is created, contain any land
21 outside the district as of the effective date of the Act enacting
22 this chapter.

23 (d) The district's board of directors, on its own motion or
24 on receipt of a petition signed by the owner or owners of a majority
25 of the assessed value of the real property in the district, may
26 adopt an order dividing the district.

27 (e) An order dividing the district must:

- 1 (1) name each new district;
2 (2) include the metes and bounds description of the
3 territory of each new district;
4 (3) appoint temporary directors serving staggered
5 four-year terms for each new district; and
6 (4) provide for the division of assets and liabilities
7 between or among the new districts.

8 (f) On or before the 30th day after the date of adoption of
9 an order dividing the district, the district shall file the order
10 with the Texas Commission on Environmental Quality and record the
11 order in the real property records of each county in which the
12 district is located.

13 (g) A new district created by the division of the district
14 is not required to hold a confirmation election.

15 (h) The consent of a municipality or county is not required
16 for the creation of any new district under this section if the new
17 district's creation complies with Subsection (c).

18 (i) A new district created by the division of the district
19 must hold an election to obtain voter approval before the district
20 may impose a maintenance tax or issue bonds payable wholly or partly
21 from ad valorem taxes.

22 SUBCHAPTER C. BONDS AND OTHER OBLIGATIONS

23 Sec. 9045.101. AUTHORITY TO ISSUE BONDS AND OTHER
24 OBLIGATIONS FOR ROAD PROJECTS. (a) The district may issue bonds or
25 other obligations payable wholly or partly from ad valorem taxes,
26 impact fees, revenue, contract payments, grants, or other district
27 money, or any combination of those sources, to pay for a project

1 authorized by Section 9045.053.

2 (b) The district may not issue bonds payable from ad valorem
3 taxes to finance a road project unless the issuance is approved by a
4 vote of a two-thirds majority of the district voters voting at an
5 election held for that purpose.

6 (c) At the time of issuance, the total principal amount of
7 bonds or other obligations issued or incurred to finance road
8 projects and payable from ad valorem taxes may not exceed
9 one-fourth of the assessed value of real property in the district.

10 Sec. 9045.102. TAXES FOR BONDS. At the time the district
11 issues bonds payable wholly or partly from ad valorem taxes, the
12 board shall provide for the annual imposition of a continuing
13 direct ad valorem tax, without limit as to rate or amount, while all
14 or part of the bonds are outstanding.

15 SECTION 2. The Hidalgo County Water Control and Improvement
16 District No. 18 retains all the rights, powers, privileges,
17 authority, duties, and functions that it had before the effective
18 date of this Act.

19 SECTION 3. (a) The legislature validates and confirms all
20 governmental acts and proceedings of the Hidalgo County Water
21 Control and Improvement District No. 18 that were taken before the
22 effective date of this Act.

23 (b) This section does not apply to any matter that on the
24 effective date of this Act:

25 (1) is involved in litigation if the litigation
26 ultimately results in the matter being held invalid by a final court
27 judgment; or

1 (2) has been held invalid by a final court judgment.

2 SECTION 4. (a) The legal notice of the intention to
3 introduce this Act, setting forth the general substance of this
4 Act, has been published as provided by law, and the notice and a
5 copy of this Act have been furnished to all persons, agencies,
6 officials, or entities to which they are required to be furnished
7 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
8 Government Code.

9 (b) The governor, one of the required recipients, has
10 submitted the notice and Act to the Texas Commission on
11 Environmental Quality.

12 (c) The Texas Commission on Environmental Quality has filed
13 its recommendations relating to this Act with the governor, the
14 lieutenant governor, and the speaker of the house of
15 representatives within the required time.

16 (d) All requirements of the constitution and laws of this
17 state and the rules and procedures of the legislature with respect
18 to the notice, introduction, and passage of this Act are fulfilled
19 and accomplished.

20 SECTION 5. This Act takes effect immediately if it receives
21 a vote of two-thirds of all the members elected to each house, as
22 provided by Section 39, Article III, Texas Constitution. If this
23 Act does not receive the vote necessary for immediate effect, this
24 Act takes effect September 1, 2015.