

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



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

March 17, 2017

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) 922, as Filed by Representative Paul Workman-relating to the creation of the Southwestern Travis County Groundwater Conservation District; providing authority to issue bonds; providing authority to impose fees.

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.

Sincerely,

A handwritten signature in black ink, appearing to read "Kim Wilson".

Kim Wilson, Director
Water Availability Division

cc: The Honorable Lyle Larson, Chairman, House Natural Resources Committee
Representative Paul Workman, Texas House of Representatives

Enclosure

HB 922, as Introduced by Representative Paul Workman Texas Commission on Environmental Quality's Comments

The Legislative Budget Board, in cooperation with the Texas Water Development Board (TWDB) and the Texas Commission on Environmental Quality (TCEQ), has determined that:

House Bill 922, as authored by Representative Paul Workman, would create the Southwestern Travis County Groundwater Conservation District (District) in southwestern Travis County with the powers and duties of Water Code, Chapter 36 related to the general law for groundwater conservation districts (GCDs). The District is located in the southwestern quarter of Travis County and is bound to the west by Blanco and Burnet counties, southwest by Hays County, and southeast by the northwestern boundary of the Barton Springs-Edwards Aquifer Conservation District. The northern boundary of the District is the Colorado River – Lake Travis, Lake Austin, and Lady Bird Lake. The purpose of the District is to benefit property by providing for the conservation, preservation, protection, recharging, and prevention of waste of groundwater, and to control subsidence caused by the withdrawal of groundwater under powers conferred by Article XVI, Section 59 of the Texas Constitution. Creation of the District is not subject to a confirmation election.

Comments on Powers/Duties Different from Similar Types of Districts – Unlike general law GCDs, the bill provides that exempt wells include: a well used for a single private residential household use incapable of producing more than 10,000 gallons of groundwater per day; a well used for farming, ranching, aquaculture, livestock feedlots, or poultry operations; and a well used for dewatering and monitoring for coal or lignite production. Under the Water Code, an exempt well for domestic use or for providing water for livestock or poultry is located on a tract of land larger than 10 acres and is drilled, completed, or equipped so the well is incapable of producing more than 25,000 gallons per day.

Unlike general law GCDs, the bill provides that seven temporary directors will be appointed no later than 90 days of the effective date of the Act, December 1, 2017. The temporary directors are required to hold an organizational meeting within 45 days of the date the seventh temporary director is appointed. Temporary directors will be appointed as follows; the Travis County Commissioner appointing two, the Travis County Judge one,

and the State Representative and State Senator each appointing two. Temporary directors appoint temporary board member vacancies. If there are fewer than four temporary directors, the State Representative will fill all vacancies on the board.

Subsequent permanent directors are elected not later than the uniform election date in November 2019 with three directors elected from each corporate limits of the City of Bee Cave, City of Lakeway or Village of the Hills and City of West Lake Hills and four directors elected by voters residing inside the District and outside the corporate limits of the City of Bee Cave, City of Lakeway, Village of the Hills, and City of West Lake Hills. The Four directors must also reside inside the District and outside the corporate limits of the City of Bee Cave, City of Lakeway, Village of the Hills, and City of West Lake Hills. The initial permanent directors will draw lots for four positions with four-year terms and the three positions with two-year terms. Subsequent elected directors will serve four-year terms. Under the Water Code, general law GCD directors are elected by the single-precinct method.

Unlike general law GCDs, the bill provides that the District may implement and develop aquifer storage and recovery projects. The District may not levy and collect ad valorem taxes or collect a well construction fee from an owner of an exempt well. The District may charge and collect from non-exempt well owners a new well construction fee not to exceed \$1,000, a renewal application fee not to exceed \$400, and a water utility service connection fee not to exceed \$1,000 for each new water service connection made after September 1, 2017.

Similar to general law GCDs, the bill provides that the District may impose reasonable production fees based on the amount of groundwater actually produced by nonexempt wells. Annual District production fees on non-exempt wells may not exceed 10 cents per thousand gallons. Under the Water Code, general law GCDs may impose annual production fees that may not exceed \$1 per acre-foot for groundwater used for agricultural purposes or \$10 per acre-foot for groundwater used for any other purpose.

Unlike general law GCDs, the bill restricts an employee or agent of the District from access to property within the boundaries of the District to inspect an exempt well without the property owner's permission. Unlike general law GCDs, the District may request that the TCEQ obtain that permission from the property owner. The bill provides that employees or

agents of the TCEQ may enter public or private property in the District at any reasonable time to inspect an exempt well; inspect and investigate conditions relating to the quality of water in the state; and monitor compliance with any rule, regulation, permit, or other order of the District or the TCEQ with the property owner's permission. The bill provides that an employee or agent of the TCEQ may only enter public or private property if the owner is unresponsive to the TCEQ's attempt to obtain the owner's permission or there is an immediate danger to public health or the environment. The bill provides that if any employee or agent of the TCEQ is refused the right to enter public or private property in the District, the executive director may seek a court order from a district court authorizing the TCEQ to enter the land.

Overlapping Services — The boundaries of the District are located in the southwestern quarter of Travis County bound to the west by Blanco and Burnet counties, southwest by Hays County, and southeast by the northwestern boundary of the Barton Springs/Edwards Aquifer Conservation District. The northern boundary of the southwestern Travis territory is the Colorado River – Lake Travis, Lake Austin, and Lady Bird Lake. GCD functions do not conflict with services provided by other types of water districts or utilities.

TCEQ's Supervision — As with general law GCDs, the TCEQ will have general supervisory authority, including bond review authority and authority as it is related to the District's development and implementation of a management plan; the District would not have to comply with TCEQ financial auditing requirements.

LETTER OF TRANSMITTAL
HOUSE OF REPRESENTATIVES
STATE OF TEXAS

HB 922
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.

1/17/2017

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.

February 22, 2017

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

