

Bryan W. Shaw, Ph.D., P.E., *Chairman*  
Toby Baker, *Commissioner*  
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## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

March 30, 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) 1920, as Filed by Representative Dan Flynn - Relating to the Palo Duro River Authority, following recommendations of the Sunset Advisory Commission

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 Palo Duro River Authority was created by Chapter 438, Acts of the 63rd Legislature, Regular Session, 1973. The Authority holds certificate of adjudication no. 01-3803 which authorizes the Authority to maintain a dam and reservoir on Palo Duro Creek. The water in Palo Duro Creek and impounded in the reservoir is subject to the Canadian River Compact Commission. The Authority recently underwent a Sunset Review. This bill is intended to incorporate the recommendations of the Sunset Advisory Commission pursuant to that review; the Bill proposes: implement the Sunset Review recommendations by amending, Chapter 438, Acts of the 63<sup>rd</sup> Legislature, Regular Session, 1973 as follows: the Palo Duro River Authority of Texas, would be converted to a "Water District." All instances of references to "authority" are amended to read "district." Section 1, et seq of the Act; the jurisdiction for the entity is expanded to include Moore County and City of Stinnett. Section 2 of the Act; the District is empowered to act outside its boundaries. Section 3 of the Act; the term for a director on the board is amended to be two-year staggered terms that expire on December 31 of each year. Section 17 of the Act; the bill would disallow the commissioners court of Hutchinson County from appointing a director to the board and would authorize the city council for the City of Stinnett to appoint a director to the board. Section 17(b) of the Act; a provision is repealed which prevented the detachment of territory after issuance of bonds payable from revenue or taxes. Section 23(a) of the Act; a provision is repealed which stated that all taxes levied for any purpose constitute a lien on the property. Section 27 of the Act; the language "after giving consideration to any revenues that may be pledged to the payment of bonds" is struck from Section 28(h) of the Act; definitions for Board, Commission, Director, and District are added. Proposed new Section 1B of

the Act; a new section creating procedures for a county or municipality to withdraw from the district or for the district to dissolve is added. The procedures for withdrawal or dissolution require: notice of intent to withdraw in a resolution by a member county or city or the District; a public hearing on the resolution within 30 days; a financial agreement must be made which provides for sufficient revenue for maintaining the Palo Duro Reservoir and transfer of the dam to an entity that assumes responsibility for the maintenance of the dam and liability for actions related to the dam; an opportunity for public comment on the financial agreement; and a two-thirds vote by the board in favor of the withdrawal or dissolution. Proposed new Section 13A; new sections relating to operation of the board of the District including: a requirement that the District provide the public with a reasonable opportunity to appear before the board and speak at the meetings; provisions for considering the financial interest of a director in a contract under consideration by members of the board; a procedure for consideration of charges and removal of a board member for inefficiency, neglect of duty, or misconduct; and a requirement that a board member complete training regarding the functions and authority of the District prior to being allowed to vote or deliberate on the board – persons currently on the board of the Authority would be exempt from the training until January 1, 2018. Proposed new Section 19A-19D; a requirement that the board develop and implement policies that separate policymaking responsibilities of the board and management responsibilities of the general manager. Proposed new Section 19E; a requirement that the District maintain procedures for acting on complaints, make information available describing the procedures, and periodically notify complainants of the status of their complaints. Proposed new Section 19F; a requirement that the District develop a policy of encouraging negotiated rulemaking procedures and alternative dispute resolution for resolution of internal and external disputes. Proposed new Section 19G; the Bill requires for the Governor to submit notice of the intent to introduce this Act to the TCEQ, and for the TCEQ to file recommendations with Governor, the Lieutenant Governor, and the Speakers of the House of Representatives and Senate. Section 13 of the Bill. Section 11 of the Bill repeals 10 provisions of the Act as follows: Chapter 438, Act of the 63<sup>rd</sup> Legislature, Section 1A, which made the Authority subject to review by the Sunset Commission; chapter 438, Act of the 63<sup>rd</sup> Legislature, Section 2A, which allows the Authority to call an election to annex Moore County; chapter 438, Act of the 63<sup>rd</sup> Legislature, Section 2B, which annexed the City of Stinnett; chapter 438, Act of the 63<sup>rd</sup> Legislature, Section 4, which allows the Authority to acquire land and easements by eminent domain; chapter 438, Act of the 63<sup>rd</sup> Legislature, Section 13(e), which allows a county to detach from the Authority prior to issuance of bonds; chapter 438, Act of the 63<sup>rd</sup> Legislature, Section 28(i), which authorized an ad valorem tax of \$1 per \$100 valuation of taxable property chapter 438, Act of the 63<sup>rd</sup> Legislature, Section 30, which declared that the Authority is essential to the purposes of Section 59, Article 16 of the Texas Constitution; chapter 115, Act of the 64<sup>th</sup> Legislature, Section 9, which provided proof of publication of constitutional notice; chapter 17, Act of the 68th Legislature, Section 6, which provided proof of publication of constitutional notice; chapter 651, Act of the 70<sup>th</sup> Legislature, Section 4, which provided proof of publication of constitutional notice. The Act takes effect September 1, 2017.

Sincerely,



Cari-Michel LaCaille, Director  
Water Supply Division

cc: Honorable Lyle Larson, Chairman, House Natural Resources Committee  
Representative Dan Flynn, Texas House of Representatives

LETTER OF TRANSMITTAL  
HOUSE OF REPRESENTATIVES  
STATE OF TEXAS

HB 1920  
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.

2/24/2017

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.

March 3, 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



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