

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*

April 7, 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) 2851, as Filed by Representative Paul Workman - Relating to the creation of the Onion Creek Watershed Hays and Travis Counties Flood Control District No. 1; granting a limited power of eminent domain; providing authority to impose assessments and 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 cursive script, reading "Cari-Michel LaCaille".

Cari-Michel LaCaille, Director  
Water Supply Division

cc: Honorable Jim Murphy, Chairman, House Special Purpose Districts Committee  
Representative Paul Workman, Texas House of Representatives

Enclosure

**HB 2851, as Filed 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:

This bill amends the Special District Local Laws Code by adding Chapter 7812 which creates Onion Creek Watershed Hays and Travis Counties Flood Control District No. 1 (District) with the powers and duties conferred by general law on a flood control district created under Section 59, Article XVI, Texas Constitution, and as provided by Subchapter C, Section 7812.101 in the bill, with the following exceptions.

**Comments on Powers/Duties Different from Similar Types of Districts:** The District may annex land to or may exclude land from the District in accordance with Subchapter J, Chapter 49, or Subchapter H, Chapter 54, Water Code. The District is not required to hold an exclusion hearing; the following provisions of Chapter 49, Water Code, do not apply to the District: Section 49.104, which allows two or more districts situated in the same county to designate a common election office and common early and regular polling places within one or more of the districts; Section 49.1045, which allows a district to provide for an inquiry into and certification of the voting results of an election; Section 49.152, which allows a district to issue bonds, notes, or other obligations to borrow money for any corporate law or combination of corporate purposes; Section 49.154, which allows a district to issue tax anticipation notes or bond anticipation notes; Section 49.155, which allows a district to pay out of bond proceeds or other available funds certain expenses of the district; Section 49.219, which allows a district to acquire existing water, sanitary sewer, or drainage systems of any water supply corporation; Section 49.222, which allows for eminent domain inside or outside the district boundaries; Section 49.236, which requires a district to give notice of each meeting of the board at which the adoption of a tax rate will be considered; Section 49.2361, which requires that if a district proposes to adopt a combined tax rate that would authorize the qualified voters of the district

by petition to require a rollback election to be held in the district, the notice required by Section 49.236, Water Code, must include a description of the purpose of the proposed tax increase; Subchapter F, which provides for the authority of the TCEQ over issuance of district bonds, TCEQ supervision of projects and improvements, bond sales, approval of bonds by the Attorney General, and authorized investments; Subchapter L, relating to construction or contracting for firefighting services; and Subchapter N, relating to the construction of recreational facilities; this bill specifies that the District has a right-of-way and easement over and across a road or highway of this state or a subdivision of this state for the construction or maintenance of a district flood control project, subject to the requirements of the Texas Transportation Commission if the project requires the relocation or bridging of a state highway; the bill specifies that the District may use the bed and banks of a bayou, river, or stream in the District, subject to the requirements of the TCEQ; the bill specifies that the District is entitled to maintain a flood control project constructed in Hays or Travis County by the United States if the project extends wholly or partly into the District or is within five miles of the boundaries of the District and is considered by the board to protect property in the district; the District may exercise the power of eminent domain inside District boundaries to acquire property or an interest in property of any kind that is necessary or convenient for the District to exercise a right, power, privilege, or function conferred on the District by this chapter; and, if the bill does not receive a two-thirds vote of all members elected to each house, the District may not exercise the power of eminent domain.

**Overlapping Services:** TCEQ does not have mapping information for water and/or wastewater providers because this function was transferred from the TCEQ to the Public Utility Commission on September 1, 2014. As a result, TCEQ is unaware of possible overlapping service providers.

**TCEQ's Supervision:** As with general law districts, the TCEQ will have general supervisory authority, including bond review authority and review of financial reports.

LETTER OF TRANSMITTAL  
HOUSE OF REPRESENTATIVES  
STATE OF TEXAS

HB 2851

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.

3/6/2017

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 13, 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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