

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

Protecting Texas by Reducing and Preventing Pollution

May 4, 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) 4297, as Filed by Representative Rick Miller - Relating to the creation of Telfair Tract 5 Commercial Management District; providing authority to issue bonds; providing authority to impose assessments, fees, or taxes.

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 that reads "Cari-Michel LaCaille".

Cari-Michel LaCaille, Director
Water Supply Division

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

Enclosure

HB 4297, as Filed by Representative Rick Miller
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 3953 which creates the Telfair Tract 5 Commercial Management District (District) with the powers and duties of a standard municipal management district (MMD) under Local Government Code Chapter 375 and a standard public improvement district under Local Government Code Chapter 372 with the following specificities.

Comments on Powers/Duties Different from Similar Types of Districts: The District is to be governed by a board of nine voting directors that are appointed by the governing body of the City of Sugarland (City). The bill specifies that the governing body is not bound by the recommendations of the board or a City stakeholder and may appoint as a voting director any qualified person; a District improvement project may be located inside the District or outside of the District if the project is for the purpose of extending a public infrastructure improvement beyond the District's boundaries to a logical terminus; the District may exercise the powers given to a development corporation; the board by resolution may authorize the creation of a nonprofit corporation to assist and act for the District in implementing a project or providing a service authorized by this chapter; the District may contract with a qualified party to provide law enforcement services for a fee; the District may join and pay dues to a charitable or nonprofit organization that performs a service or provides an activity consistent with the furtherance of a District purpose; the District may engage in activities that accomplish the economic development purposes of the District; the District may acquire, lease as lessor or lessee, construct, develop, own, operate, and maintain parking facilities or a system of parking facilities, including lots, garages, parking terminals, or other structures or accommodations for parking motor vehicles off the streets and related appurtenances; the District may annex or exclude territory as provided by Subchapter J, Chapter 49, Water Code. Section 375.044(b), Local Government Code, requiring the board to call a hearing on the exclusion of land or other property from the district if a signed petition evidencing the consent of the owners of a majority of the acreage in

the district is filed with the secretary of the board requesting the hearing before the issuance of bonds does not apply to the District; the District must obtain the approval of the City for: the issuance of bonds for an improvement project financed by the bonds if any part of the project is carried out in the corporate limits of the City; and the plans and specifications of the improvement project financed by the bonds. The bill specifies that if the District obtains the approval of the City's governing body of a capital improvements budget for a period not to exceed five years, the District may finance the capital improvements and issue bonds specified in the budget without further approval from the City; if the legislature grants the District a power that is in addition to the powers approved by the initial resolution of the governing body of the City consenting to the creation of the District, the District may not exercise that power unless the governing body of the City by resolution consents to that change; the District may not exercise the power of eminent domain; the board may not finance a service or improvement project with assessments under this chapter unless a written petition requesting that service or improvement has been filed with the board; Local Government Code Section 375.161 states that an MMD may not impose an impact fee, assessment, tax, or other requirement for payment, construction, alteration, or dedication under this chapter on single-family detached residential property, duplexes, triplexes, and fourplexes. The bill specifies that this section does not apply to the District; the District may issue, without an election, bonds, notes, and other obligations secured by: revenue other than ad valorem taxes; or contract payments described by Section 3953.204; Local Government Code Section 375.243 states that the board may not call a bond election unless a written petition has been filed with the board requesting an election. The bill specifies that this section does not apply to the District; Section 49.107(h), Water Code states that an operation and maintenance tax to be used for recreational facilities, as defined by Section 49.462, Water Code, levied by a district located in a county with a population of more than 3.3 million or in a county adjacent to that county may not exceed 10 cents per \$100 of assessed valuation of taxable property in the District. The bill specifies that this section does not apply to the District; Section 375.205, Local Government Code, requiring the District to submit bonds that are public securities and the appropriate proceedings authorizing their issuance to the attorney general for examination, does not apply to a loan, line of credit, or other borrowing from a bank or financial institution secured by revenue other than ad valorem taxes; current statutes stipulate that a district may not issue bonds

for recreational facilities that exceed one percent of the district's assessed valuation. The bill specifies that this requirement does not apply to the District; and, the City may dissolve the District by ordinance.

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 4297


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.

3/29/2017

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.

April 7, 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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