

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) 4301, as Filed by Representative Jason Isaac - Relating to the creation of the Driftwood Conservation District; granting a limited power of eminent domain; providing authority to issue bonds; providing authority to impose assessments, fees, and 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,

Cari-Michel LaCaille, Director  
Water Supply Division

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

Enclosure

**HB 4301, as Filed by Representative Jason Isaac**  
**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 creates Driftwood Conservation District (District) with the powers and duties of a standard municipal utility district under Water Code Chapters 49 and 54.

**Comments on Powers/Duties Different from Similar Types of Districts:** The bill requires the TCEQ to appoint the temporary directors upon receipt from the owners of a majority of the assessed value of the real property in the District; the bill requires the temporary directors to hold an election to confirm the creation of the district and to elect five permanent directors as provided by Section 49.102, Water Code; the temporary directors may not hold an election for permanent directors until each municipality in whose corporate limits or extraterritorial jurisdiction the District is located has consented by ordinance or resolution to the creation of the District and to the inclusion of land in the District; the bill grants the District authority for road projects; the bill specifies that the District may provide or finance, or contract to provide or finance the following types of projects: a public improvement, facility, or service that may be provided by a municipal utility district or a municipal management district (MMD), including: water, wastewater, reclamation, drainage, road, trail, or bridge improvement, utilization and reuse of treated effluent in landscape and other features, including temporary holding features, transportation of treated effluent for reuse, and injection of treated stormwater runoff or stormwater collected from roofs into aquifers as storage or to recharge the aquifer; and the purchase and maintenance of conservation land for endangered species, including the cost of any permits relating to endangered species or the maintenance of the land and purchasing land or easements for conservation mitigation; the District may inject stormwater without the consent, concurrence, or authorization of a groundwater conservation district, but only if the District acquires a permit as required by Section 27.011, Water Code; 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; Local Government Code Section 375.163 relation to the exemption of recreational, park, or scenic use property does not apply to the District; the bill allows the District to divide; the District may not issue bonds payable from ad valorem taxes to finance a road project unless the issuance is approved by a vote of a two-thirds majority of the District voters voting at an election held for that purpose; the District may not impose an impact fee or assessment on the property of: an electric utility or a power generation company; a gas utility; a telecommunications provider; or a person who provides to the public cable television or advanced telecommunications services; the bill specifies that at the time of issuance, the total principal amount of bonds or other obligations issued or incurred to finance road projects and payable from ad valorem taxes may not exceed one-fourth of the assessed valuation; the District may define areas or designate certain property of the district to pay for improvements, facilities, or services that primarily benefit that area or property and do not generally and directly benefit the District as a whole; 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 4301  
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

