

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

June 02, 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) 4347, as Filed by Representative John Wray - Relating to the creation of the Midlothian Municipal Management District No. 3; 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 John Wray, Texas House of Representatives

Enclosure

**HB 4347, as Filed by Representative John Wray
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 3952 which creates Midlothian Municipal Management District No. 3 (District) with the powers and duties of a standard municipal management district under Local Government Code Chapter 375, a standard municipal utility district under Water Code Chapters 49 and 54, a standard road utility district under Section 52(b), Article III, Texas Constitution, including chapter 441, Transportation Code, and a standard public improvement district under Chapter 372, Local Government Code.

Comments on Powers/Duties Different from Similar Types of Districts:

The District may not exercise any powers under this chapter until the development agreement is executed; the District is to be governed by a board of five voting directors that are appointed by the governing body of the City of Midlothian from a list of persons recommended by the board; the board of directors will also include the City's manager, and chief financial officer that will serve as non-voting directors; Texas Water Code, Section 49.052 (Disqualifications of Directors) will not apply to the District's board members; the bill specifies that the District may adopt rules to administer or operate the district and enforce its rules by injunctive relief; the District may not exercise the power of eminent domain; the District may not undertake an improvement project or service unless the board determines the project or service: is necessary to accomplish a public purpose of the district; complies with the development agreement and consent application agree to the project or service, in writing; and is authorized by an ordinance of the city that consents to the creation of the District; the bill specifies that planning, design, construction, improvement, or maintenance of a lake includes work done for drainage, reclamation, or recreation; the bill specifies that the District may contract with any person to accomplish any district purpose; before the District may issue bonds, impose taxes or assessments, or borrow money, the District must obtain city confirmation that the development agreement and consent application are enforceable and no defaults are known; the District may impose an assessment on property in the District if the assessment is authorized by an ordinance of the city to pay the cost or the cost of maintenance of any authorized

district improvement; this bill specifies that Local Government Code Section 372.023(e), that states that the interest rate on unpaid amounts due under an installment sales contract, reimbursement agreement, temporary note, or time warrant of costs payable from a special assessment that is payable in installments, does not apply to the District; 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 bill specifies that the District may issue bonds, notes, or other obligations payable wholly or partly from ad valorem taxes or assessments; Local Government Code Section 375.208 states that a District must obtain approval from the TCEQ if it issues bonds to provide, water, wastewater, or drainage facilities; Texas Water Code Chapter 49.181 and 49.182 state that a District may not issue bonds without TCEQ approval of feasibility and no substantial alterations may be made in the plans and specifications without the approval of the TCEQ; the bill specifies that these sections do not apply to the District; the District may impose an ad valorem tax; the governing body of 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 4347
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.

5/2/2017

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.

May 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



85R HB 04347