

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 Dan Patrick
Lieutenant Governor of Texas
Capitol Station
PO Box 12068
Austin, Texas 78711

Re: Responsibility of the Texas Commission on Environmental Quality (TCEQ) Pursuant to Article XVI, Section 59(d), Texas Constitution

Senate Bill (SB) 1361, as Filed by Senator Brandon Creighton - Relating to the powers and duties of the Sabine-Neches Navigation District of Jefferson County.

Dear Governor Patrick:

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 bill makes several changes to Chapter 1472, Acts of the 77th Legislature, Regular Session, 2001, regarding the Sabine-Neches Navigation District of Jefferson County; the bill amends Section 5 to specify that this Act prevails over any provision of general law that is in conflict or inconsistent with this Act except that a provision of general law that is in conflict or inconsistent with this Act prevails to the extent that the TCEQ exercises a power under that general law provision and that exercise is authorized by an order or resolution expressly referring to that general law provision; the bill amends Section 6A by adding Subsection (a-1) which specifies that the District may acquire, purchase, lease, maintain, repair, and operate facilities and equipment for preventing, detecting, controlling, and fighting fires on or adjacent to the Sabine-Neches Waterway and for the protection of life and property from damage by fire and explosion; the bill amends Section 6B as follows: language is added to Subsection (f) which specifies that the District may pledge to impose and may impose a maintenance tax in an amount sufficient to comply with the District's obligations under the District's contracts, leases, and agreements at a maximum aggregate rate not to exceed 10 cents for each \$100 valuation of taxable property in the District; Subsection (i) is added which specifies that the District may: request a person designated by the District to create a domestic entity under the Business Organizations Code; and approve the provisions of the certificate of formation, the provisions of the bylaws, and the initial members of the governing body of the domestic entity; Subsection (j) is added which specifies that the provisions of the certificate of formation and the bylaws under Subsection (i) may include provisions that: provide that the certificate and the bylaws may not be amended without the consent of the District; and require the approval of the District of all members of the

Hon. Dan Patrick
Page 2
April 7, 2017

governing body of the domestic entity; Subsection (k) is added which specifies that the domestic entity created under Subsection (i) does not have the power of eminent domain; Subsection (l) is added which specifies that the domestic entity created under Subsection (i) is created for the purpose of financing all or a portion of the improvement project with funds from any private, public, or governmental source, including the District; Subsection (m) is added which specifies that the District may enter into a contract with the domestic entity to pay a portion of the amount to finance the improvement project. The District may pledge the proceeds of the District's maintenance tax to any contract with the domestic entity in the same manner as provided by Subsection (f); and, House Bill 2952 by Rep. Deshotel is the companion to this proposed bill.

Sincerely,



Cari-Michel LaCaille, Director
Water Supply Division

cc: Honorable Charles Perry, Chairman, Senate Agriculture, Water, & Rural Affairs
Committee
Senator Brandon Creighton, Texas Senate

LETTER OF TRANSMITTAL
TEXAS SENATE
STATE OF TEXAS

SB 1361

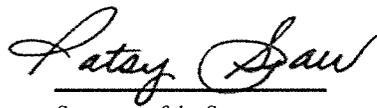
Bill Number

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.

3/7/2017

Date transmitted to
Governor's Office



Secretary of the Senate

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 President of the Senate
The Honorable Speaker of the House of Representatives
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

By: Creighton

S.B. No. 1361

A BILL TO BE ENTITLED

1

AN ACT

2 relating to the powers and duties of the Sabine-Neches Navigation
3 District of Jefferson County.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 5, Chapter 1472, Acts of the 77th
6 Legislature, Regular Session, 2001, is amended to read as follows:

7 Sec. 5. GENERAL POWERS. The district has all of the rights,
8 powers, privileges, authority, functions, and duties provided by
9 the general law of this state, including Chapters 49, 60, and 62,
10 Water Code, applicable to navigation districts created under
11 Section 59, Article XVI, Texas Constitution. This Act prevails
12 over any provision of general law that is in conflict or
13 inconsistent with this Act except that a provision of general law
14 that is in conflict or inconsistent with this Act prevails to the
15 extent that the commission exercises a power under that general law
16 provision and that exercise is authorized by an order or resolution
17 expressly referring to that general law provision.

18 SECTION 2. Section 6A, Chapter 1472, Acts of the 77th
19 Legislature, Regular Session, 2001, is amended by adding Subsection
20 (a-1) to read as follows:

21 (a-1) The district may acquire, purchase, lease, maintain,
22 repair, and operate facilities and equipment for preventing,
23 detecting, controlling, and fighting fires on or adjacent to the
24 Sabine-Neches Waterway and for the protection of life and property

1 from damage by fire and explosion.

2 SECTION 3. Section 6B, Chapter 1472, Acts of the 77th
3 Legislature, Regular Session, 2001, is amended by amending
4 Subsection (f) and adding Subsections (i), (j), (k), (l), and (m) to
5 read as follows:

6 (f) The district may provide that payments required by any
7 of the district's contracts, agreements, or leases may be payable
8 from the sale of notes, taxes, or bonds, or any combination of
9 notes, taxes, or bonds, or may be secured by a lien on or a pledge of
10 any available funds, including proceeds of the district's
11 maintenance tax, and may be payable subject to annual appropriation
12 by the district. The district may pledge to impose and may impose a
13 maintenance tax in an amount sufficient to comply with the
14 district's obligations under the district's contracts, leases, and
15 agreements at a maximum aggregate rate not to exceed 10 cents for
16 each \$100 valuation of taxable property in the district. Sections
17 26.04, 26.05, 26.07, and 26.012, Tax Code, do not apply to
18 maintenance taxes levied and collected for payments under a
19 contract, agreement, lease, time warrant, or maintenance note
20 issued or executed under this section.

21 (i) The district may:

22 (1) request a person designated by the district to
23 create a domestic entity under the Business Organizations Code; and

24 (2) approve:

25 (A) the provisions of the certificate of
26 formation;

27 (B) the provisions of the bylaws; and

1 (C) the initial members of the governing body of
2 the domestic entity.

3 (j) The provisions of the certificate of formation and the
4 bylaws under Subsection (i) may include provisions that:

5 (1) provide that the certificate and the bylaws may
6 not be amended without the consent of the district; and

7 (2) require the approval of the district of all
8 members of the governing body of the domestic entity.

9 (k) The domestic entity created under Subsection (i) does
10 not have the power of eminent domain.

11 (l) The domestic entity created under Subsection (i) is
12 created for the purpose of financing all or a portion of the
13 improvement project with funds from any private, public, or
14 governmental source, including the district.

15 (m) The district may enter into a contract with the domestic
16 entity to pay a portion of the amount to finance the improvement
17 project. The district may pledge the proceeds of the district's
18 maintenance tax to any contract with the domestic entity in the same
19 manner as provided by Subsection (f).

20 SECTION 4. (a) The legislature validates and confirms all
21 acts and proceedings of the board of directors of the Sabine-Neches
22 Navigation District of Jefferson County that were taken before the
23 effective date of this Act.

24 (b) Subsection (a) of this section does not apply to any
25 matter that on the effective date of this Act:

26 (1) is involved in litigation if the litigation
27 ultimately results in the matter being held invalid by a final

1 judgment of a court; or

2 (2) has been held invalid by a final judgment of a
3 court.

4 SECTION 5. (a) The legal notice of the intention to
5 introduce this Act, setting forth the general substance of this
6 Act, has been published as provided by law, and the notice and a
7 copy of this Act have been furnished to all persons, agencies,
8 officials, or entities to which they are required to be furnished
9 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
10 Government Code.

11 (b) The governor, one of the required recipients, has
12 submitted the notice and Act to the Texas Commission on
13 Environmental Quality.

14 (c) The Texas Commission on Environmental Quality has filed
15 its recommendations relating to this Act with the governor, the
16 lieutenant governor, and the speaker of the house of
17 representatives within the required time.

18 (d) All requirements of the constitution and laws of this
19 state and the rules and procedures of the legislature with respect
20 to the notice, introduction, and passage of this Act are fulfilled
21 and accomplished.

22 SECTION 6. This Act takes effect immediately if it receives
23 a vote of two-thirds of all the members elected to each house, as
24 provided by Section 39, Article III, Texas Constitution. If this
25 Act does not receive the vote necessary for immediate effect, this
26 Act takes effect September 1, 2017.



AFFIDAVIT OF PUBLICATION

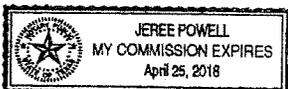
The State of Texas,
County of Jefferson,
City of Port Arthur

Andrea Nussle, being duly sworn deposes and says:

That she is a resident citizen of Jefferson County, Texas and that she is of lawful age; that she is the Classified Representative of PORT ARTHUR NEWSMEDIA, LLC, same being a newspaper published and having a general circulation in the City of Port Arthur, Jefferson County, Texas; that said newspaper has been continuously and regularly published for a period of more than one year in Jefferson County, Texas, and that the advertising of Sabine - Neches Navigation District, Ad# 164617 was published in said newspaper in the issue(s) of 1-20-17, which was/were the regular publication day(s) of said issue(s); and that said issue(s) was/were actually published, circulated and distributed.

Andrea Nussle

SUBSCRIBED AND sworn to before me,
this the 20 day of Jan 2017



Jeree Powell

Notary Public in and for Jefferson County, Texas

Publishers Affidavit

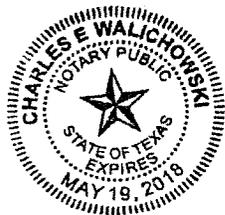
Acct #062422102 Job =201051201 Tear Sheet Attached
Name BENCKENSTEIN & OXFORD, L.L.P 3894665 B24275799

STATE OF TEXAS
COUNTY OF JEFFERSON

BEFORE ME, THE UNDERSIGNED AUTHORITY, ON THIS DAY PERSONALLY APPEARED Victoria Bond
WHO BEING BY ME DULY SWORN, DEPOSES AND SAYS THAT HE/SHE IS A NEWSPAPER REPRESENTATIVE
FOR THE BEAUMONT ENTERPRISE; THAT SAID NEWSPAPER REGULARLY PUBLISHED IN JEFFERSON COUNTY
CIRCULATED IN JEFFERSON, HARDIN, TYLER, NEWTON, ORANGE, JASPER, LIBERTY, SABINE, CHAMBERS,
SAN AUGUSTINE, ANGELINA AND GALVESTON COUNTY(COUNTIES), TEXAS; THAT THE ATTACHED NOTICE
IN SAID NEWSPAPER ON THE FOLLOWING DATE(S), TO WIT:
01-20-17

Victoria Bond
NEWSPAPER REPRESENTATIVE

SWORN AND SUBSCRIBED TO BEFORE ME, THIS 23RD DAY OF JANUARY 2017,
TO CERTIFY WHICH WITNESS MY HAND AND SEAL OF OFFICE.



Charles E. Walichowski
NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

Charles E. Walichowski
PRINT OR TYPE NAME OF NOTARY PUBLIC
MY COMMISSION EXPIRES May 19, 2018

