

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 20, 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) 2251, as Filed by Senator Lois W. Kolkhorst- Relating to the creation of the Fort Bend County Municipal Utility District No. 224; granting limited power of eminent domain; providing authority to issue bonds; providing authority to impose assessments, fees, and taxes.

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.

Sincerely,

A handwritten signature in cursive script that reads "Cari-Michel LaCaille".

Cari-Michel LaCaille, Director
Water Supply Division

cc: Honorable Eddie Lucio, Jr., Chairman, Senate Intergovernmental Relations Committee
Senator Brandon Creighton, Texas Senate

Enclosure

**SB 2251, as Filed by Senator Lois Kolkhorst
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 Fort Bend County Municipal Utility District No. 224 (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 initial directors upon receipt of a petition from the owners of a majority of the assessed value of the real property in the district; this bill grants the District Road Powers; 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; House Bill 1331 by Rep Zerwas is the companion to this proposed bill.

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
TEXAS SENATE
STATE OF TEXAS

SB 2251

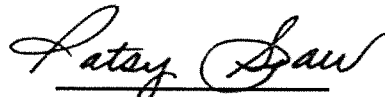
Bill Number

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.

3/24/2017

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 24, 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: Kolkhorst

S.B. No. 2251

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the creation of the Fort Bend County Municipal Utility
3 District No. 224; granting a limited power of eminent domain;
4 providing authority to issue bonds; providing authority to impose
5 assessments, fees, and taxes.

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

7 SECTION 1. Subtitle F, Title 6, Special District Local Laws
8 Code, is amended by adding Chapter 7969 to read as follows:

9 CHAPTER 7969. FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 224

10 SUBCHAPTER A. GENERAL PROVISIONS

11 Sec. 7969.001. DEFINITIONS. In this chapter:

12 (1) "Board" means the district's board of directors.

13 (2) "Commission" means the Texas Commission on
14 Environmental Quality.

15 (3) "Director" means a board member.

16 (4) "District" means the Fort Bend County Municipal
17 Utility District No. 224.

18 Sec. 7969.002. NATURE OF DISTRICT. The district is a
19 municipal utility district created under Section 59, Article XVI,
20 Texas Constitution.

21 Sec. 7969.003. CONFIRMATION AND DIRECTORS' ELECTION
22 REQUIRED. The temporary directors shall hold an election to
23 confirm the creation of the district and to elect five permanent
24 directors as provided by Section 49.102, Water Code.

1 Sec. 7969.004. CONSENT OF MUNICIPALITY REQUIRED. The
2 temporary directors may not hold an election under Section 7969.003
3 until each municipality in whose corporate limits or
4 extraterritorial jurisdiction the district is located has
5 consented by ordinance or resolution to the creation of the
6 district and to the inclusion of land in the district.

7 Sec. 7969.005. FINDINGS OF PUBLIC PURPOSE AND BENEFIT. (a)
8 The district is created to serve a public purpose and benefit.

9 (b) The district is created to accomplish the purposes of:

10 (1) a municipal utility district as provided by
11 general law and Section 59, Article XVI, Texas Constitution; and

12 (2) Section 52, Article III, Texas Constitution, that
13 relate to the construction, acquisition, improvement, operation,
14 or maintenance of macadamized, graveled, or paved roads, or
15 improvements, including storm drainage, in aid of those roads.

16 Sec. 7969.006. INITIAL DISTRICT TERRITORY. (a) The
17 district is initially composed of the territory described by
18 Section 2 of the Act enacting this chapter.

19 (b) The boundaries and field notes contained in Section 2 of
20 the Act enacting this chapter form a closure. A mistake made in the
21 field notes or in copying the field notes in the legislative process
22 does not affect the district's:

23 (1) organization, existence, or validity;

24 (2) right to issue any type of bond for the purposes
25 for which the district is created or to pay the principal of and
26 interest on a bond;

27 (3) right to impose a tax; or

1 (4) legality or operation.

2 SUBCHAPTER B. BOARD OF DIRECTORS

3 Sec. 7969.051. GOVERNING BODY; TERMS. (a) The district is
4 governed by a board of five elected directors.

5 (b) Except as provided by Section 7969.052, directors serve
6 staggered four-year terms.

7 Sec. 7969.052. TEMPORARY DIRECTORS. (a) On or after the
8 effective date of the Act enacting this chapter, the owner or owners
9 of a majority of the assessed value of the real property in the
10 district may submit a petition to the commission requesting that
11 the commission appoint as temporary directors the five persons
12 named in the petition. The commission shall appoint as temporary
13 directors the five persons named in the petition.

14 (b) Temporary directors serve until the earlier of:

15 (1) the date permanent directors are elected under
16 Section 7969.003; or

17 (2) the fourth anniversary of the effective date of
18 the Act enacting this chapter.

19 (c) If permanent directors have not been elected under
20 Section 7969.003 and the terms of the temporary directors have
21 expired, successor temporary directors shall be appointed or
22 reappointed as provided by Subsection (d) to serve terms that
23 expire on the earlier of:

24 (1) the date permanent directors are elected under
25 Section 7969.003; or

26 (2) the fourth anniversary of the date of the
27 appointment or reappointment.

S.B. No. 2251

1 (d) If Subsection (c) applies, the owner or owners of a
2 majority of the assessed value of the real property in the district
3 may submit a petition to the commission requesting that the
4 commission appoint as successor temporary directors the five
5 persons named in the petition. The commission shall appoint as
6 successor temporary directors the five persons named in the
7 petition.

8 SUBCHAPTER C. POWERS AND DUTIES

9 Sec. 7969.101. GENERAL POWERS AND DUTIES. The district has
10 the powers and duties necessary to accomplish the purposes for
11 which the district is created.

12 Sec. 7969.102. MUNICIPAL UTILITY DISTRICT POWERS AND
13 DUTIES. The district has the powers and duties provided by the
14 general law of this state, including Chapters 49 and 54, Water Code,
15 applicable to municipal utility districts created under Section 59,
16 Article XVI, Texas Constitution.

17 Sec. 7969.103. AUTHORITY FOR ROAD PROJECTS. Under Section
18 52, Article III, Texas Constitution, the district may design,
19 acquire, construct, finance, issue bonds for, improve, operate,
20 maintain, and convey to this state, a county, or a municipality for
21 operation and maintenance macadamized, graveled, or paved roads, or
22 improvements, including storm drainage, in aid of those roads.

23 Sec. 7969.104. ROAD STANDARDS AND REQUIREMENTS. (a) A road
24 project must meet all applicable construction standards, zoning and
25 subdivision requirements, and regulations of each municipality in
26 whose corporate limits or extraterritorial jurisdiction the road
27 project is located.

1 (b) If a road project is not located in the corporate limits
2 or extraterritorial jurisdiction of a municipality, the road
3 project must meet all applicable construction standards,
4 subdivision requirements, and regulations of each county in which
5 the road project is located.

6 (c) If the state will maintain and operate the road, the
7 Texas Transportation Commission must approve the plans and
8 specifications of the road project.

9 Sec. 7969.105. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCE
10 OR RESOLUTION. The district shall comply with all applicable
11 requirements of any ordinance or resolution that is adopted under
12 Section 54.016 or 54.0165, Water Code, and that consents to the
13 creation of the district or to the inclusion of land in the
14 district.

15 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

16 Sec. 7969.151. ELECTIONS REGARDING TAXES OR BONDS. (a) The
17 district may issue, without an election, bonds and other
18 obligations secured by:

19 (1) revenue other than ad valorem taxes; or

20 (2) contract payments described by Section 7969.153.

21 (b) The district must hold an election in the manner
22 provided by Chapters 49 and 54, Water Code, to obtain voter approval
23 before the district may impose an ad valorem tax or issue bonds
24 payable from ad valorem taxes.

25 (c) The district may not issue bonds payable from ad valorem
26 taxes to finance a road project unless the issuance is approved by a
27 vote of a two-thirds majority of the district voters voting at an

1 election held for that purpose.

2 Sec. 7969.152. OPERATION AND MAINTENANCE TAX. (a) If
3 authorized at an election held under Section 7969.151, the district
4 may impose an operation and maintenance tax on taxable property in
5 the district in accordance with Section 49.107, Water Code.

6 (b) The board shall determine the tax rate. The rate may not
7 exceed the rate approved at the election.

8 Sec. 7969.153. CONTRACT TAXES. (a) In accordance with
9 Section 49.108, Water Code, the district may impose a tax other than
10 an operation and maintenance tax and use the revenue derived from
11 the tax to make payments under a contract after the provisions of
12 the contract have been approved by a majority of the district voters
13 voting at an election held for that purpose.

14 (b) A contract approved by the district voters may contain a
15 provision stating that the contract may be modified or amended by
16 the board without further voter approval.

17 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

18 Sec. 7969.201. AUTHORITY TO ISSUE BONDS AND OTHER
19 OBLIGATIONS. The district may issue bonds or other obligations
20 payable wholly or partly from ad valorem taxes, impact fees,
21 revenue, contract payments, grants, or other district money, or any
22 combination of those sources, to pay for any authorized district
23 purpose.

24 Sec. 7969.202. TAXES FOR BONDS. At the time the district
25 issues bonds payable wholly or partly from ad valorem taxes, the
26 board shall provide for the annual imposition of a continuing
27 direct ad valorem tax, without limit as to rate or amount, while all

S.B. No. 2251

1 or part of the bonds are outstanding as required and in the manner
2 provided by Sections 54.601 and 54.602, Water Code.

3 Sec. 7969.203. BONDS FOR ROAD PROJECTS. At the time of
4 issuance, the total principal amount of bonds or other obligations
5 issued or incurred to finance road projects and payable from ad
6 valorem taxes may not exceed one-fourth of the assessed value of the
7 real property in the district.

8 SECTION 2. The Fort Bend County Municipal Utility District
9 No. 224 initially includes all the territory contained in the
10 following area:

11 A METES & BOUNDS description of a 178.52 acre tract of land in
12 the Thomas Westall League, Abstract 92, Fort Bend County, Texas,
13 being comprised of that certain called 1.127 acre tract recorded
14 under County Clerk's File Number 2007044630, Official Public
15 Records, Fort Bend County, Texas, and that certain called 56.470
16 acre tract and portions of those certain called 55.480 acre and
17 called 73.831 acre tracts recorded under County Clerk's File Number
18 2004143701, Official Public Records, Fort Bend County, Texas, with
19 all bearings based upon the Texas Coordinate System, South Central
20 Zone, NAD83, based upon GPS observations.

21 Beginning at a 5/8 inch iron rod with cap marked "1535-4035"
22 found in the northeast right-of-way line of F. M. Highway 1489
23 (100-foot wide) for the south corner of said called 56.470 acre
24 tract, same being the west corner of an adjoining called 154 ± acre
25 tract as recorded under Probate File Number 016127, Probate
26 Records, Fort Bend County, Texas, for the south corner and Place of
27 Beginning of the herein described tract;

S.B. No. 2251

1 Thence North 35 degrees 42 minutes 52 seconds West along the
2 southwest line of the herein described tract, same being the
3 northeast right-of-way line of F. M. Highway 1489, at 783.00 feet
4 pass a 5/8 inch iron rod with cap marked "1535-4035" found on said
5 line for the west corner of said called 56.470 acre tract, being in
6 the southerly right-of-way line of Vernon Frost Road (60-feet
7 wide), at 843.62 feet pass a 5/8 inch iron rod with cap marked
8 "1535-4035" found on said line for the south corner of the
9 aforementioned called 55.480 acre tract, being in the northerly
10 right-of-way line of Vernon Frost Road, and continuing for a total
11 distance of 1,593.71 feet to a point on said line at its
12 intersection with the existing northeasterly line of the
13 Extraterritorial Jurisdictional limits of the City of Simonton,
14 being one-half mile from the corporate limits of the City of
15 Simonton as established by Ordinance Number 980108 of the City
16 Council of Simonton, for the lower west corner of the herein
17 described tract, said point being in a non-tangent curve to the
18 left;

19 Thence along said non-tangent curve to the left, being the
20 northeasterly line of the Extraterritorial Jurisdictional limits
21 of the City of Simonton, having a central angle of 45 degrees 15
22 minutes 50 seconds, a radius of 2,640.00 feet, an arc length of
23 2,085.61 feet, and a chord bearing North 28 degrees 01 minute 05
24 seconds West, 2,031.80 feet to a point on said line at its
25 intersection with the west line of the aforementioned called 73.831
26 acre tract for the upper west corner of the herein described tract,
27 said point being in the east right-of-way line of F. M. Highway

S.B. No. 2251

1 1489;

2 Thence North 05 degrees 05 minutes 04 seconds West along the
3 upper west line of the herein described tract, same being the east
4 right-of-way line of F. M. Highway 1489, 378.70 feet to a 5/8 inch
5 iron rod with cap marked "1535-4035" found for the northwest corner
6 of the herein described tract and said called 73.831 acre tract,
7 same being a southwest corner of an adjoining called 100.171 acre
8 tract recorded in Volume 1833, Page 438, Official Records, Fort
9 Bend County, Texas;

10 Thence North 88 degrees 58 minutes 41 seconds East along the
11 upper north line of the herein described tract and the north line of
12 said called 73.831 acre tract, same being a southwest line of said
13 adjoining called 100.171 acre tract, 2,488.56 feet to the upper
14 northeast corner of the herein described tract, being the northeast
15 corner of said called 73.831 acre tract, same being the northwest
16 corner of an adjoining called 18.00 acre tract recorded under
17 County Clerk's File Number 2000043870, Official Public Records,
18 Fort Bend County, Texas;

19 Thence South 00 degrees 59 minutes 54 seconds East along the
20 east line of said called 73.831 acre tract, same being the west line
21 of said adjoining called 18.00 acre tract, 948.59 feet to the
22 southeast corner of said called 73.831 acre tract, same being the
23 southwest corner of said adjoining called 18.00 acre tract, and
24 being in the north line of the aforementioned called 55.480 acre
25 tract, as located in the centerline of Bessie's Creek;

26 Thence along the centerline of Bessie's Creek with the
27 following meanders:

S.B. No. 2251

1 North 54 degrees 11 minutes 36 seconds East, 133.89
2 feet;

3 North 71 degrees 49 minutes 46 seconds East, 212.50 feet
4 to the northeast corner of said called 55.480 acre tract, being a
5 northwest corner of an adjoining portion of the Vernon Frost Estate
6 recorded under Probate File Number 016127, Probate Records, Fort
7 Bend County, Texas;

8 Thence South 03 degrees 22 minutes 17 seconds West along the
9 east line of said called 55.480 acre tract, same being a west line
10 of said adjoining Vernon Frost Estate, 275.66 feet to an angle
11 point;

12 Thence South 06 degrees 04 minutes 43 seconds East continuing
13 along said line, at 982.05 feet pass a 5/8 inch iron rod found on
14 said line at its intersection with the northerly right-of-way line
15 of Vernon Frost Road for the southeast corner of said called 55.480
16 acre tract, and continuing for a total distance of 1,046.49 feet to
17 a point for a reentry corner to the herein described tract being in
18 the southerly right-of-way line of Vernon Frost Road, same being
19 the northerly line of the aforementioned called 56.470 acre tract;

20 Thence North 62 degrees 30 minutes 22 seconds East along the
21 southerly right-of-way line of Vernon Frost Road, same being the
22 northerly line of said called 56.470 acre tract, 274.12 feet to a
23 5/8 inch iron rod with cap marked "1535-4035" found for angle point;

24 Thence South 85 degrees 35 minutes 20 seconds East continuing
25 along said line, 1,372.06 feet to a 5/8 inch iron rod with cap
26 marked "1535-4035" found for the lower northeast corner of the
27 herein described tract and the northeast corner of said called

S.B. No. 2251

1 56.470 acre tract, same being the upper northwest corner of the
2 aforementioned adjoining called 154 ± acre tract;

3 Thence South 04 degrees 24 minutes 40 seconds West along the
4 common line of the herein described tract and said adjoining called
5 154 ± acre tract, 883.00 feet to the southeast corner of said called
6 56.470 acre tract;

7 Thence North 85 degrees 35 minutes 20 seconds West continuing
8 along said common line, 1,324.09 feet to an angle point;

9 Thence South 62 degrees 30 minutes 22 seconds West continuing
10 along said common line, 1,369.17 feet to the Place of Beginning and
11 containing 178.52 acres of land, more or less.

12 SECTION 3. (a) The legal notice of the intention to
13 introduce this Act, setting forth the general substance of this
14 Act, has been published as provided by law, and the notice and a
15 copy of this Act have been furnished to all persons, agencies,
16 officials, or entities to which they are required to be furnished
17 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
18 Government Code.

19 (b) The governor, one of the required recipients, has
20 submitted the notice and Act to the Texas Commission on
21 Environmental Quality.

22 (c) The Texas Commission on Environmental Quality has filed
23 its recommendations relating to this Act with the governor, the
24 lieutenant governor, and the speaker of the house of
25 representatives within the required time.

26 (d) All requirements of the constitution and laws of this
27 state and the rules and procedures of the legislature with respect

S.B. No. 2251

1 to the notice, introduction, and passage of this Act are fulfilled
2 and accomplished.

3 SECTION 4. (a) If this Act does not receive a two-thirds
4 vote of all the members elected to each house, Subchapter C, Chapter
5 7969, Special District Local Laws Code, as added by Section 1 of
6 this Act, is amended by adding Section 7969.106 to read as follows:

7 Sec. 7969.106. NO EMINENT DOMAIN POWER. The district may
8 not exercise the power of eminent domain.

9 (b) This section is not intended to be an expression of a
10 legislative interpretation of the requirements of Section 17(c),
11 Article I, Texas Constitution.

12 SECTION 5. This Act takes effect immediately if it receives
13 a vote of two-thirds of all the members elected to each house, as
14 provided by Section 39, Article III, Texas Constitution. If this
15 Act does not receive the vote necessary for immediate effect, this
16 Act takes effect September 1, 2017.

12/28

Schwartz, Page 8 Hearing
Notice of Intention

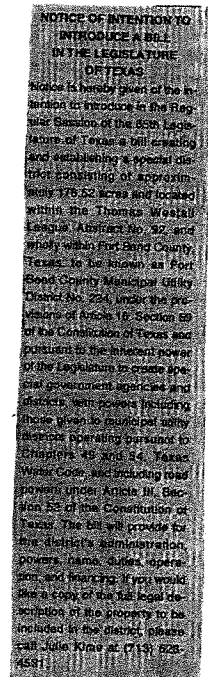
PUBLISHER'S AFFIDAVIT

THE STATE OF TEXAS §
COUNTY OF FORT BEND §

Before me, the undersigned authority, on this day personally appeared Lee Hartman who being by me duly sworn, deposes and says that he is the Publisher of *Fort Bend Herald* and that said newspaper meets the requirements of Section 2051.044 of the Texas Government Code, to wit:

1. it devotes not less than twenty-five percent (25%) of its total column lineage to general interest items;
2. it is published at least once each week;
3. it is entered as second-class postal matter in the county where it is published; and
4. it has been published regularly and continuously since 1959.
5. it is generally circulated within Fort Bend County.

(CLIPPING) (S)



Publisher further deposes and says that the attached notice was published in said newspaper on the following date(s) to wit:

12/28
_____, A.D. 2016

Lee Hartman
Publisher

SUBSCRIBED AND SWORN BEFORE ME by Lee Hartman, who

- X a) is personally known to me, or
_____ b) provided the following evidence to establish his/her identity, _____

on this the 30th day of December, A.D. 2016
to certify which witness my hand and seal of office.

Kimberly L. Rodriguez
Notary Public, State of Texas

