

Jon Niermann, *Chairman*
Emily Lindley, *Commissioner*
Toby Baker, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

April 12, 2019

The Honorable Dennis Bonnen
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) 4635, as Filed by Representative John Zerwas - Relating to the creation of the Orchard Management District No. 1; providing authority to issue bonds; providing authority to impose assessments, fees, and taxes

Dear Speaker Bonnen:

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 La Caille".

Cari-Michel La Caille, Director
Water Supply Division

cc: Honorable Garnet Coleman, Chairman, House County Affairs Committee
Representative John Zerwas, Texas House of Representatives

Enclosure

**HB 4635, as Filed by Representative John Zerwas
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 Orchard Management District No. 1 (District) with the powers and duties of a standard municipal management district under Local Government Code Chapter 375.

Comments on Powers/Duties Different from Similar Types of Districts: A director is entitled to receive fees of office and reimbursement for actual expenses provided by Section 49.060, Water Code. Sections 375.069 and 375.070, Local Government Code, do not apply to the board; the bill requires the TCEQ to appoint the five initial temporary directors upon receipt of a petition from the owners of a majority of the assessed value of the real property in the district; the District may develop or finance recreational facilities; this bill grants the District authority for road projects; the District may construct, acquire, improve, maintain, finance, and operate rail facilities and improvements in aid of those facilities for the transport of freight and other cargo; the board by resolution may authorize the creation of a nonprofit corporation with the powers created under Subchapter D, Chapter 431, Transportation Code; the District may contract for or employ peace officers under Section 49.216, Water Code; 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 bill allows the District to create economic development programs and exercise economic development powers under Chapter 380, Local Government Code and Subchapter A, Chapter 1509, Government Code; the District may negotiate and enter into a written strategic partnership agreement under Local Government Code Section 43.0751, with a municipality in whose extraterritorial jurisdiction the District is located; the District may negotiate and enter into a written regional participation agreement under Local Government Code Section 43.0754, with a municipality in whose corporate boundaries or extraterritorial jurisdiction the District is located; the District may acquire, lease, construct, develop, own, operate, and maintain parking facilities; the bill specifies that the District may add or exclude land as provided by Subchapter J, Chapter 49, Water Code; Section 375.044(b), Local

Government Code, does not apply to the District; the District may elect to complete an annual financial report in lieu of an annual audit under Section 375.096(a)(6), Local Government Code; 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; the District may levy a maintenance tax as provided for in Section 49.107 of the Water Code; 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; Chapter 49.4645, Water Code, states that the District's outstanding principal debt for recreational facilities cannot exceed one percent of the District's current estimated taxable assessed valuation, the bill specifies that this section does not apply to the District; Section 375.243, Local Government Code, 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; the board may dissolve the District regardless of whether the District has debt. Section 375.264, Local Government Code, does not apply to the District; if the District has debt when it is dissolved, the District shall remain in existence solely for the purpose of discharging its debts, and the dissolution is effective when all debts have been discharged.

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 4635

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.

3/14/2019

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.

March 18, 2019

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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