

Jon Niermann, *Chairman*
Emily Lindley, *Commissioner*
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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

May 1, 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) 4690, as Filed by Representative Ed Thompson - Relating to the territory, powers, and administration of the Gulf Coast Water Authority

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.

The bill amends Chapter 712, Acts of the 59th Legislature, Regular Session, 1965 related to the Gulf Coast Water Authority (Authority). The bill adds Brazoria and Fort Bend Counties to the Authority's existing territory. The bill adds the powers granted by Chapter 49, Water Code, to the Authority. The Authority may apply for and receive loans, secure obligations under a loan or other contract for borrowed money with a pledge of Authority revenues or the proceeds of future borrowing. The Authority may refund or refinance loans and accept contributions. The bill specifies that competitive bidding and contract procurement requirements do not apply to the Authority for certain water projects with an individual, entity, partnership, or corporation. The bill specifies that this does not apply to a contract for architectural or engineering services. The board by resolution may authorize the creation of a nonprofit corporation to assist and act for the Authority in implementing a project or providing a service authorized by this chapter.

The bill specifies that the Authority shall have none of the powers conferred by General Law for certain wastes and storm waters except as directly related to the production and purification of water for certain uses. The bill adds cemeteries to the list of items that the Authority, at its expense, may relocate, raise, reroute, or change the grade or alter the construction of in its exercise of the power of eminent domain. The bill makes non-substantive changes to clean up the language related to the Texas Department of Water Resources.

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The bill requires that a director on the board of the Authority be a resident of the State of Texas. The bill specifies that vacancies of the board of directors will be filled by the commissioners court for the unexpired term of the director.

All terms of office shall be staggered two year terms ending on August 31 of the appropriate year. The bill specifies that six directors constitutes a quorum. A director may be removed by the commissioners court that appointed the director for inefficiency, neglect of duty, or misconduct of office. The bill specifies that Chapter 171, Local Government Code, relating to conflicts of interest of officers does not apply to a director appointed to represent agricultural or industrial interests. A director who has a financial interest in a contract considered by the Authority for the purchase of property or the construction of a facility must disclose the interest to the other directors and may not vote on the contract. The bill specifies certain requirements related to an open or closed meeting of the board held by telephone conference call. If the board employs a general manager, the general manager is the chief executive officer of the Authority.

The Authority is not required to provide notice for the sale or disposal of Authority personal property with a value of less than \$25,000. The Authority may enter into certain contracts related to a water project located outside the Authority and may enter into certain agreements with a political subdivision for a purpose related to a water project. The bill changes the reference related to the net effective interest rate for bonds for any of its corporate purposes to be calculated in accordance with Chapter 1204, Government Code. The bill also removes reference to redeeming such bonds, in such amounts and at such prices not exceeding 105 percent of the principal amount thereof, plus accrued interest. The Authority may issue bond anticipation notes or enter into a loan to pay the costs to meet an emergency need secured by a pledge of and made payable from authority revenues or the proceeds of a future series of bonds. House Bill 1958 by Representative Ed Thompson and Senate Bill 1043 by Senator Taylor are similar to this bill.

Sincerely,



Cari-Michel La Caille, Director
Water Supply Division

cc: Honorable Lyle Larson, Chairman, House Natural Resources Committee
Representative Ed Thompson, Texas House of Representatives

