

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) 4703, as Filed by Representative Garnet Coleman - Relating to the creation of the Harris County Improvement District No. 28; 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 Garnet Coleman, Texas House of Representatives

Enclosure

**HB 4703, as Filed by Representative Garnet F. Coleman
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 Harris County Improvement District No. 28 (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:

The bill specifies that the District will provide for water, wastewater, drainage, road, and recreational facilities for the District; the District may provide, design, construct, acquire, improve, relocate, operate, maintain, or finance an improvement project or service using money available to the District, or contract with a governmental or private entity to provide, design, construct, acquire, improve, relocate, operate, maintain, or finance an improvement project or service; 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 to provide law enforcement services in the District; 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 acquire, lease, construct, develop, own, operate, and maintain parking facilities; the bill specifies that the District may add or exclude land in the manner provided by Subchapter J, Chapter 49, Water Code, or by Subchapter H, Chapter 54, Water 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 impose an operation and maintenance tax on taxable property in the District if authorized by a majority of the District voters; 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; the bill specifies that the limitation on the outstanding principal amount of bonds, notes, or other obligations provided by Section 49.4645, Water Code, 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 not issue bonds until each municipality in whose corporate limits or extraterritorial jurisdiction the District is located has consented by ordinance or resolution to the creation of the District and to the inclusion of land in the District; the bill specifies that except as provided by Section 375.263, Local Government Code, the City is not required to pay a bond, note, or other obligation of the District; the bill allows the board to dissolve the District on written petition filed with the board by the owners of 66 percent or more of the assessed valuation of property subject to assessment by the District or 66 percent or more of the surface area of the District, excluding roads, streets, highways, utility rights-of-way, other public areas, and other property exempt from assessment; the board may not dissolve the District if the District has any outstanding bond indebtedness until that debt has been repaid or defeased, has a contractual obligation to pay money until that obligation has been fully paid, or owns, operates, or maintains public works, facilities, or improvements unless the District contracts with another person for the ownership and operation of the public works, facilities, or improvements; Sections 375.261, 375.262, and 375.264, Local Government Code, do not apply to the District.

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.

