

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



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

May 2, 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) 4706, as Filed by Representative Justin Holland - Relating to the creation of the Dynavest Municipal 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 Angie Chen Button, Chairman, House Urban Affairs Committee
Representative Justin Holland, Texas House of Representatives

Enclosure

**HB 4706, as Filed by Representative Justin Holland
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 Dynavest Municipal 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:

The bill specifies that the District will provide for water, wastewater, drainage, road, and recreational facilities for the District; the bill specifies that the District shall comply with all applicable requirements of any ordinance that consents to the creation of the District or to the inclusion of land in the District; any agreement between the District and a municipality related to the municipality's consent to the creation of the District, including a development agreement, is valid and enforceable; 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 bill allows the District to divide; 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 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 bill specifies that if the improvements financed by an obligation will be conveyed to or operated and maintained by a municipality or retail utility provider under an agreement between the District and the municipality or retail utility provider entered into before the issuance of the obligation, the obligation may be in the form of bonds, notes, or other obligations payable wholly or partly from assessments, issued by public or private sale, in the manner provided by Subchapter A, Chapter 372, Local Government Code; 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 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 debt 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.

