

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 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) 2461, as Filed by Senator Brandon Creighton - Relating to the creation of the Montgomery County Management District No. 1; 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 La Caille".

Cari-Michel La Caille, Director  
Water Supply Division

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

Enclosure

**SB 2461, as Filed by Senator Brandon Creighton  
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 Montgomery County 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 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 an operation and 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 District may impose a hotel occupancy tax for any purpose described by Section 351.101 or 352.101, Tax Code; 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.



AFFIDAVIT OF PUBLICATION

STATE OF TEXAS:

Before me, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared, the Newspaper Representative at the HOUSTON CHRONICLE, a daily newspaper published in Harris County, Texas, and generally circulated in the Counties of: HARRIS, TRINITY, WALKER, GRIMES, POLK, SAN JACINTO, WASHINGTON, MONTGOMERY, LIBERTY, AUSTIN, WALLER, CHAMBERS, COLORADO, BRAZORIA, FORT BEND, GALVESTON, WHARTON, JACKSON, and MATAGORDA and that the publication, of which the annexed herein, or attached to, is a true and correct copy, was published to-wit:

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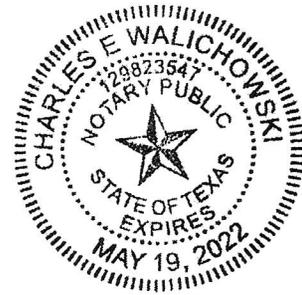
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Jan 23 2019

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*Victoria Bond #1R clerk*  
NEWSPAPER REPRESENTATIVE

Sworn and subscribed to before me, this 23rd Day of January A.D. 2019



*Charles E. Walichowski*  
Notary Public in and for the State of Texas

**NOTICE OF INTENTION TO INTRODUCE A BILL  
IN THE LEGISLATURE OF TEXAS**

Notice is hereby given of the intention to introduce in the Regular Session of the 86th Legislature of Texas a bill creating and establishing a special district consisting of approximately 1,121 acres and located within the following surveys: Edward Taylor Survey, Abstract No. 554; Charles Frazier Survey, Abstract No. 206; Andrew J. Hensley Survey, Abstract No. 255; Azariah Prather Survey, Abstract No. 427; and the Leander Westcott Survey, Abstract No. 616; within the extraterritorial jurisdiction of the City of Magnolia; and within Montgomery County, Texas, to be known as Montgomery County Management District No. 1, under the provisions of Article 16, Section 59 of the Constitution of Texas and pursuant to the inherent power of the Legislature to create special government agencies and districts, with powers including those given to municipal management districts operating pursuant to Chapter 375, Texas Local Government Code, and including the powers under Article III, Section 52, Article XVI, Section 59 and Article III, Section 52-a, of the Constitution of Texas. The bill will provide for the district's administration, powers, name, duties, operation, and financing. If you would like a copy of the full legal description of the property to be included in the district, please call Julie Kime at (713) 623-4531.