

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



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

May 10, 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) 2533, as Filed by Senator Lois Kolkhorst - Relating to the creation of the Fort Bend County Municipal Utility District No. 242; granting a limited power of eminent domain; 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 Lois Kolkhorst, Texas Senate

Enclosure

**SB 2533, as Filed by Senator Lois Kolkhorst
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 Fort Bend County Municipal Utility District No. 242 (District) with the powers and duties of a standard municipal utility district under Water Code Chapters 49 and 54.

Comments on Powers/Duties Different from Similar Types of Districts:

The District must receive consent to the creation of the District from each municipality in whose corporate limits or extraterritorial jurisdiction the District is located prior to holding a confirmation election; 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 bill grants the District authority for road projects; the bill specifies that at the time of issuance, the total principal amount of bonds or other obligations issued or incurred to finance road projects and payable from ad valorem taxes may not exceed one-fourth of the assessed value of real property in the District; and if the bill does not receive a two-thirds vote of all members elected to each house, the District may not exercise the power of eminent domain.

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
TEXAS SENATE
STATE OF TEXAS

SB 2533

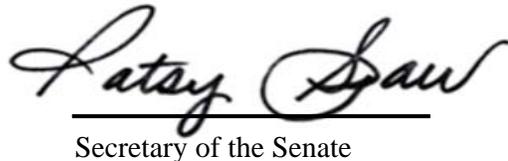
Bill Number

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.

4/8/2019

Date transmitted to
Governor's Office



Secretary of the Senate

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.

April 11, 2019

Date transmitted to
Texas Commission on Environmental Quality



Governor

TO: The Honorable President of the Senate
The Honorable Speaker of the House of Representatives
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

By: Kolkhorst

S.B. No. 2533

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the creation of the Fort Bend County Municipal Utility
3 District No. 242; granting a limited power of eminent domain;
4 providing authority to issue bonds; providing authority to impose
5 assessments, fees, and taxes.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 SECTION 1. Subtitle F, Title 6, Special District Local Laws
8 Code, is amended by adding Chapter 7900 to read as follows:

9 CHAPTER 7900. FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 242

10 SUBCHAPTER A. GENERAL PROVISIONS

11 Sec. 7900.0101. DEFINITIONS. In this chapter:

12 (1) "Board" means the district's board of directors.

13 (2) "Commission" means the Texas Commission on
14 Environmental Quality.

15 (3) "Director" means a board member.

16 (4) "District" means the Fort Bend County Municipal
17 Utility District No. 242.

18 Sec. 7900.0102. NATURE OF DISTRICT. The district is a
19 municipal utility district created under Section 59, Article XVI,
20 Texas Constitution.

21 Sec. 7900.0103. CONFIRMATION AND DIRECTOR ELECTION
22 REQUIRED. The temporary directors shall hold an election to
23 confirm the creation of the district and to elect five permanent
24 directors as provided by Section 49.102, Water Code.

1 Sec. 7900.0104. CONSENT OF MUNICIPALITY REQUIRED. The
2 temporary directors may not hold an election under Section
3 7900.0103 until each municipality in whose corporate limits or
4 extraterritorial jurisdiction the district is located has
5 consented by ordinance or resolution to the creation of the
6 district and to the inclusion of land in the district.

7 Sec. 7900.0105. FINDINGS OF PUBLIC PURPOSE AND BENEFIT.

8 (a) The district is created to serve a public purpose and benefit.

9 (b) The district is created to accomplish the purposes of:

10 (1) a municipal utility district as provided by
11 general law and Section 59, Article XVI, Texas Constitution; and

12 (2) Section 52, Article III, Texas Constitution, that
13 relate to the construction, acquisition, improvement, operation,
14 or maintenance of macadamized, graveled, or paved roads, or
15 improvements, including storm drainage, in aid of those roads.

16 Sec. 7900.0106. INITIAL DISTRICT TERRITORY. (a) The
17 district is initially composed of the territory described by
18 Section 2 of the Act enacting this chapter.

19 (b) The boundaries and field notes contained in Section 2 of
20 the Act enacting this chapter form a closure. A mistake made in the
21 field notes or in copying the field notes in the legislative process
22 does not affect the district's:

23 (1) organization, existence, or validity;

24 (2) right to issue any type of bond for the purposes
25 for which the district is created or to pay the principal of and
26 interest on a bond;

27 (3) right to impose a tax; or

1 (4) legality or operation.

2 SUBCHAPTER B. BOARD OF DIRECTORS

3 Sec. 7900.0201. GOVERNING BODY; TERMS. (a) The district is
4 governed by a board of five elected directors.

5 (b) Except as provided by Section 7900.0202, directors
6 serve staggered four-year terms.

7 Sec. 7900.0202. TEMPORARY DIRECTORS. (a) On or after the
8 effective date of the Act enacting this chapter, the owner or owners
9 of a majority of the assessed value of the real property in the
10 district may submit a petition to the commission requesting that
11 the commission appoint as temporary directors the five persons
12 named in the petition. The commission shall appoint as temporary
13 directors the five persons named in the petition.

14 (b) Temporary directors serve until the earlier of:

15 (1) the date permanent directors are elected under
16 Section 7900.0103; or

17 (2) the fourth anniversary of the effective date of
18 the Act enacting this chapter.

19 (c) If permanent directors have not been elected under
20 Section 7900.0103 and the terms of the temporary directors have
21 expired, successor temporary directors shall be appointed or
22 reappointed as provided by Subsection (d) to serve terms that
23 expire on the earlier of:

24 (1) the date permanent directors are elected under
25 Section 7900.0103; or

26 (2) the fourth anniversary of the date of the
27 appointment or reappointment.

1 (d) If Subsection (c) applies, the owner or owners of a
2 majority of the assessed value of the real property in the district
3 may submit a petition to the commission requesting that the
4 commission appoint as successor temporary directors the five
5 persons named in the petition. The commission shall appoint as
6 successor temporary directors the five persons named in the
7 petition.

8 SUBCHAPTER C. POWERS AND DUTIES

9 Sec. 7900.0301. GENERAL POWERS AND DUTIES. The district
10 has the powers and duties necessary to accomplish the purposes for
11 which the district is created.

12 Sec. 7900.0302. MUNICIPAL UTILITY DISTRICT POWERS AND
13 DUTIES. The district has the powers and duties provided by the
14 general law of this state, including Chapters 49 and 54, Water Code,
15 applicable to municipal utility districts created under Section 59,
16 Article XVI, Texas Constitution.

17 Sec. 7900.0303. AUTHORITY FOR ROAD PROJECTS. Under Section
18 52, Article III, Texas Constitution, the district may design,
19 acquire, construct, finance, issue bonds for, improve, operate,
20 maintain, and convey to this state, a county, or a municipality for
21 operation and maintenance macadamized, graveled, or paved roads, or
22 improvements, including storm drainage, in aid of those roads.

23 Sec. 7900.0304. ROAD STANDARDS AND REQUIREMENTS. (a) A
24 road project must meet all applicable construction standards,
25 zoning and subdivision requirements, and regulations of each
26 municipality in whose corporate limits or extraterritorial
27 jurisdiction the road project is located.

1 (b) If a road project is not located in the corporate limits
2 or extraterritorial jurisdiction of a municipality, the road
3 project must meet all applicable construction standards,
4 subdivision requirements, and regulations of each county in which
5 the road project is located.

6 (c) If the state will maintain and operate the road, the
7 Texas Transportation Commission must approve the plans and
8 specifications of the road project.

9 Sec. 7900.0305. COMPLIANCE WITH MUNICIPAL CONSENT
10 ORDINANCE OR RESOLUTION. The district shall comply with all
11 applicable requirements of any ordinance or resolution that is
12 adopted under Section 54.016 or 54.0165, Water Code, and that
13 consents to the creation of the district or to the inclusion of land
14 in the district.

15 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

16 Sec. 7900.0401. ELECTIONS REGARDING TAXES OR BONDS. (a)
17 The district may issue, without an election, bonds and other
18 obligations secured by:

19 (1) revenue other than ad valorem taxes; or

20 (2) contract payments described by Section 7900.0403.

21 (b) The district must hold an election in the manner
22 provided by Chapters 49 and 54, Water Code, to obtain voter approval
23 before the district may impose an ad valorem tax or issue bonds
24 payable from ad valorem taxes.

25 (c) The district may not issue bonds payable from ad valorem
26 taxes to finance a road project unless the issuance is approved by a
27 vote of a two-thirds majority of the district voters voting at an

1 election held for that purpose.

2 Sec. 7900.0402. OPERATION AND MAINTENANCE TAX. (a) If
3 authorized at an election held under Section 7900.0401, the
4 district may impose an operation and maintenance tax on taxable
5 property in the district in accordance with Section 49.107, Water
6 Code.

7 (b) The board shall determine the tax rate. The rate may not
8 exceed the rate approved at the election.

9 Sec. 7900.0403. CONTRACT TAXES. (a) In accordance with
10 Section 49.108, Water Code, the district may impose a tax other than
11 an operation and maintenance tax and use the revenue derived from
12 the tax to make payments under a contract after the provisions of
13 the contract have been approved by a majority of the district voters
14 voting at an election held for that purpose.

15 (b) A contract approved by the district voters may contain a
16 provision stating that the contract may be modified or amended by
17 the board without further voter approval.

18 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

19 Sec. 7900.0501. AUTHORITY TO ISSUE BONDS AND OTHER
20 OBLIGATIONS. The district may issue bonds or other obligations
21 payable wholly or partly from ad valorem taxes, impact fees,
22 revenue, contract payments, grants, or other district money, or any
23 combination of those sources, to pay for any authorized district
24 purpose.

25 Sec. 7900.0502. TAXES FOR BONDS. At the time the district
26 issues bonds payable wholly or partly from ad valorem taxes, the
27 board shall provide for the annual imposition of a continuing

1 direct ad valorem tax, without limit as to rate or amount, while all
2 or part of the bonds are outstanding as required and in the manner
3 provided by Sections 54.601 and 54.602, Water Code.

4 Sec. 7900.0503. BONDS FOR ROAD PROJECTS. At the time of
5 issuance, the total principal amount of bonds or other obligations
6 issued or incurred to finance road projects and payable from ad
7 valorem taxes may not exceed one-fourth of the assessed value of the
8 real property in the district.

9 SECTION 2. The Fort Bend County Municipal Utility District
10 No. 242 initially includes all the territory contained in the
11 following area:

12 FIELD NOTES of a 237.293 acre tract of land situated in the
13 H.&T.C. RR. Co. Survey, Block 28, Sec. 28, Abstract No. 465, and the
14 H.&T.C. RR. Co. Survey, Block 28, Sec. 28, Abstract No. 723 Fort
15 Bend County, Texas; said 237.293 acre tract of land being all of a
16 called 237.293 acre tract as conveyed to Fairchild Creek Estates,
17 LP recorded under Fort Bend County Clerk's File Number (F.B.C.C.F.
18 No.) 2000063356; said 237.293 acre tract of land being more
19 particularly described by metes and bounds as follows:

20 NOTE: All bearings are based upon Land Title Survey produced
21 by Kelly R Kaluza and Associates, Inc. signed by C. Tim Griffith
22 (RPLS No. 4349) dated September 8, 2005.

23 BEGINNING at a point in the centerline of Jeske Road (having a
24 width of 60 feet) and being the most easterly southeast corner of
25 the said called 237.293 acre tract and the herein described tract;

26 THENCE S 45°04'49" W, departing the centerline of said Jeske
27 Road and along the south easterly line of said 237.293 acre tract

1 and the herein described tract, passing at a distance of 30.00 feet
2 the southwesterly Right-Of-Way (R.O.W.) line of said Jeske Road,
3 continuing a total distance of 2,644.40 feet, to the most southerly
4 corner of said 237.293 acre tract and the herein described tract;

5 THENCE N 44°55'11" W, along the southwesterly line of said
6 237.293 acre tract, a distance of 3,970.38 feet, to the northwest
7 corner of said 237.293 acre tract and the herein described tract;

8 THENCE N 44°38'41" E, along the northwesterly line of said
9 237.293 acre tract and the herein described tract, passing at a
10 distance of 2,608.89 feet the southwesterly R.O.W. line of said
11 Jeske Road, continuing a total distance of 2,638.89 feet, to the
12 centerline of said Jeske Road and the most northerly corner of said
13 called 237.293 acre tract and the herein described tract;

14 THENCE along the east line of said 237.293 acre tract the
15 following nine (9) courses and distances:

16 S 45°00'00" E, a distance of 1,135.64 feet, to an angle in the
17 east line of the herein described tract;

18 S 45°00'00" W, a distance of 465.60 feet, to an angle in the
19 east line of the herein described tract;

20 S 45°00'00" E, a distance of 200.00 feet, to an angle in the
21 east line of the herein described tract;

22 N 45°00'00" E, a distance of 465.60 feet, to an angle in the
23 east line of the herein described tract;

24 S 45°00'00" E, a distance of 1,022.48 feet, to an angle in the
25 east line of the herein described tract;

26 S 44°30'00" W, a distance of 297.93 feet, to an angle in the
27 east line of the herein described tract;

1 S 45°00'00" E, a distance of 285.64 feet, to an angle in the
2 east line of the herein described tract;

3 N 44°30'00" E, a distance of 297.93 feet, to an angle in the
4 east line of the herein described tract;

5 THENCE S 45°00'00" E, a distance of 1,346.68 feet, to the
6 PLACE OF BEGINNING; containing within said boundaries a calculated
7 area of 237.293 acres of land.

8 SECTION 3. (a) The legal notice of the intention to
9 introduce this Act, setting forth the general substance of this
10 Act, has been published as provided by law, and the notice and a
11 copy of this Act have been furnished to all persons, agencies,
12 officials, or entities to which they are required to be furnished
13 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
14 Government Code.

15 (b) The governor, one of the required recipients, has
16 submitted the notice and Act to the Texas Commission on
17 Environmental Quality.

18 (c) The Texas Commission on Environmental Quality has filed
19 its recommendations relating to this Act with the governor, the
20 lieutenant governor, and the speaker of the house of
21 representatives within the required time.

22 (d) All requirements of the constitution and laws of this
23 state and the rules and procedures of the legislature with respect
24 to the notice, introduction, and passage of this Act are fulfilled
25 and accomplished.

26 SECTION 4. (a) If this Act does not receive a two-thirds
27 vote of all the members elected to each house, Subchapter C, Chapter

1 7900, Special District Local Laws Code, as added by Section 1 of
2 this Act, is amended by adding Section 7900.0306 to read as follows:

3 Sec. 7900.0306. NO EMINENT DOMAIN POWER. The district may
4 not exercise the power of eminent domain.

5 (b) This section is not intended to be an expression of a
6 legislative interpretation of the requirements of Section 17(c),
7 Article I, Texas Constitution.

8 SECTION 5. This Act takes effect immediately if it receives
9 a vote of two-thirds of all the members elected to each house, as
10 provided by Section 39, Article III, Texas Constitution. If this
11 Act does not receive the vote necessary for immediate effect, this
12 Act takes effect September 1, 2019.

3-5

ABHK

FB242

PUBLISHER'S AFFIDAVIT

THE STATE OF TEXAS §
COUNTY OF FORT BEND §

Before me, the undersigned authority, on this day personally appeared Lee Hartman who being by me duly sworn, deposes and says that he is the Publisher of *Fort Bend Herald* and that said newspaper meets the requirements of Section 2051.044 of the Texas Government Code, to wit:

1. it devotes not less than twenty-five percent (25%) of its total column lineage to general interest items;
2. it is published at least once each week;
3. it is entered as second-class postal matter in the county where it is published; and
4. it has been published regularly and continuously since 1959.
5. it is generally circulated within Fort Bend County.

(CLIPPING) (S)
ON Back

Publisher further deposes and says that the attached notice was published in said newspaper on the following date(s) to wit:

3-5

_____, A.D. 2019



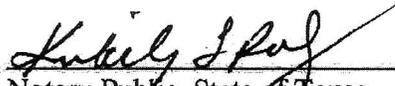
Lee Hartman
Publisher

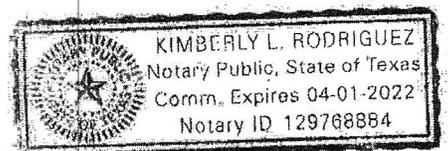
SUBSCRIBED AND SWORN BEFORE ME by Lee Hartman, who

X a) is personally known to me, or

_____ b) provided the following evidence to establish his/her identity, _____

on this the 6 day of March, A.D. 2019 to certify which witness my hand and seal of office.


Notary Public, State of Texas



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